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From Castilian to Nahuatl, or from Nahuatl to Castilian? Reflections and Doubts about Legal Translation in the Writings of Judge Alonso de Zorita (1512–1585?)

Abstract

This article examines the reflections on legal translation set out in two *Relaciones* written by the 16th century Spanish jurist Alonso de Zorita. These serve as excellent illustrations for the creative dimension motivating several of the proposals for the adaptation of Castilian law to native legal custom in the Americas. My analysis focuses on some of the linguistic issues implied by Zorita's proposal for the restoration of an idealized pre-Hispanic polity: the use of the native pictorial legal sources, and it considers some of the issues and dilemmas related to their proper interpretation and translation.

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Introduction

On June 6th, 1556, a great ceremony took place in the city of Mexico celebrating Philip II's ascension to the throne; after the abdication of his father, Charles I of Spain, some months prior, he had become king of Castile. In one of the images belonging to the Tlatelolco Codex[1] (illustration #8), an anonymous painter illustrated the oath of allegiance administered to King Philip II[2] by native noblemen (the caciques of Tlatelolco, Mexico-Tenochtitlan, Tacuba, and Tezcoco squatting in the third row of figures depicted in the Codex), the main Spanish authorities in the city of Mexico, and in the Viceroyalty of New Spain (viceroy Luis de Velasco, archbishop Alonso de Montúfar, and the judges of the Audience of Mexico, sitting on a platform in the second row), as well as prominent members of the secular and regular clergy (some of them depicted in the first row).

For the Indian population of the city of Mexico, it was an occasion to welcome their new king in accordance with their ceremonial traditions. For this special occasion, mitotes were authorized. Mitote is a theological-political dance and form of preaching that the natives used to wish their lords in the pre-Hispanic era a good reign, while, at the same time, asking their gods for good weather and beneficial agricultural conditions under the rule of the new tlatoani.[3] Mitote dancers appear in the lowest row of figures depicted in illustration #8 of Tlatelolco Codex.

Elements such as the way authorities and noblemen are portrayed,[4] the representation of political and religious ideas using symbols – for instance, birds and clothing –, and even the expression of joy and love to the new monarch during the oath of allegiance, differ according to the identity and the rank of the persons depicted by the anonymous pictorial chronicler. Nevertheless, as a whole, the

1 The pictographic chronicle – called *xiuhámatl* in Nahuatl – was created at the College of the Saint-Cross of Santiago Tlatelolco, Mexico in ca. 1562. The college was established in the 1530s by Franciscans friars. There, the sons of Indian noblemen received a higher education and were taught, for instance, Latin, music, rhetoric, logic, philosophy, and indigenous medicine. Some of the students of the College themselves went on to become teachers and helped friars such as Francisco de Las Navas or Bernardino de Sahagún to preserve indigenous history and traditions by depicting codices and together writing accounts about the worldview and customs of the native peoples of Mexico. See Silvermoon (2007). The Tlatelolco Codex is currently preserved at the National Library of Anthropology and History (BNAH) in Mexico City. The images of the Codex were depicted on a type of paper called Amate, a bark paper used in Mesoamerica since the third century.

2 For a complete account of this picture and more information about the Tlatelolco Codex, see Valle (1998) 33–48. Valle came up with a new interpretation of the picture, identified every attendant to this important political ceremony and corrected what Robert Barlow had said about this part of Tlatelolco Codex, Barlow (1948). Valle's version takes into consideration the information of the records of the Cabildo of Mexico, unknown to Barlow (published by O'Gorman, 1970), to provide a contrasting interpretation of the picture.

3 A kind of ceremony both practiced under the Spanish rule and still today in Mexico. Cf. Escalante Betancourt (2005) 45–52. Paul Scolieri attributed little importance to this kind of dance in his recently published, »Dancing the New World: Aztecs, Spaniards, and the Choreography of Conquest«, Austin, 2013. On the contrary, Mexican scholars, such as Berenice Alcántara, underline the political importance of the *mitote* and its survival as a link between the pre-Hispanic and colonial conceptions of public festivities, military prowess, exerting authority, and paying tribute to dignitaries, Alcántara (2010).

4 While Spanish clergymen, the viceroy Luis de Velasco, and the *oidores* of the Audience of Mexico, Zorita and López de Montealegre, are represented in a tri-dimensional Western perspective, the native lords are depicted in profile, following patterns of representation and identification of authorities (e. g. the glyphs indicating place names) that were common in pre-Hispanic era.

representation of this public ceremony also expresses a kind of common order, a kind of *mestizo* system of rule, where Mexican natives and Spaniards come together to perform an act of collective submission to a distant monarch. His ascension to the throne was precisely the reason or pretense for this meeting; a ceremony where two different hierarchical thoughts, religious beliefs, and symbolic patterns were carefully taken into account by the organizers and participants. The author of this part of the Tlatelolco Codex depicted all of these elements in an image of 16th century Mexico constructed as a unity *in* diversity and expressing, above all, the legal nature of a system of domination based on the interaction – even if unequal and, more often than not, conflict-ridden – between two social, religious, and legal cultures.

The image from the ca. 1562 depicted Tlatelolco Codex could be considered a good example of thecultural hybridization[5] that we have to take into account when talking about the complex dynamics of cultural and legal translation, especial-

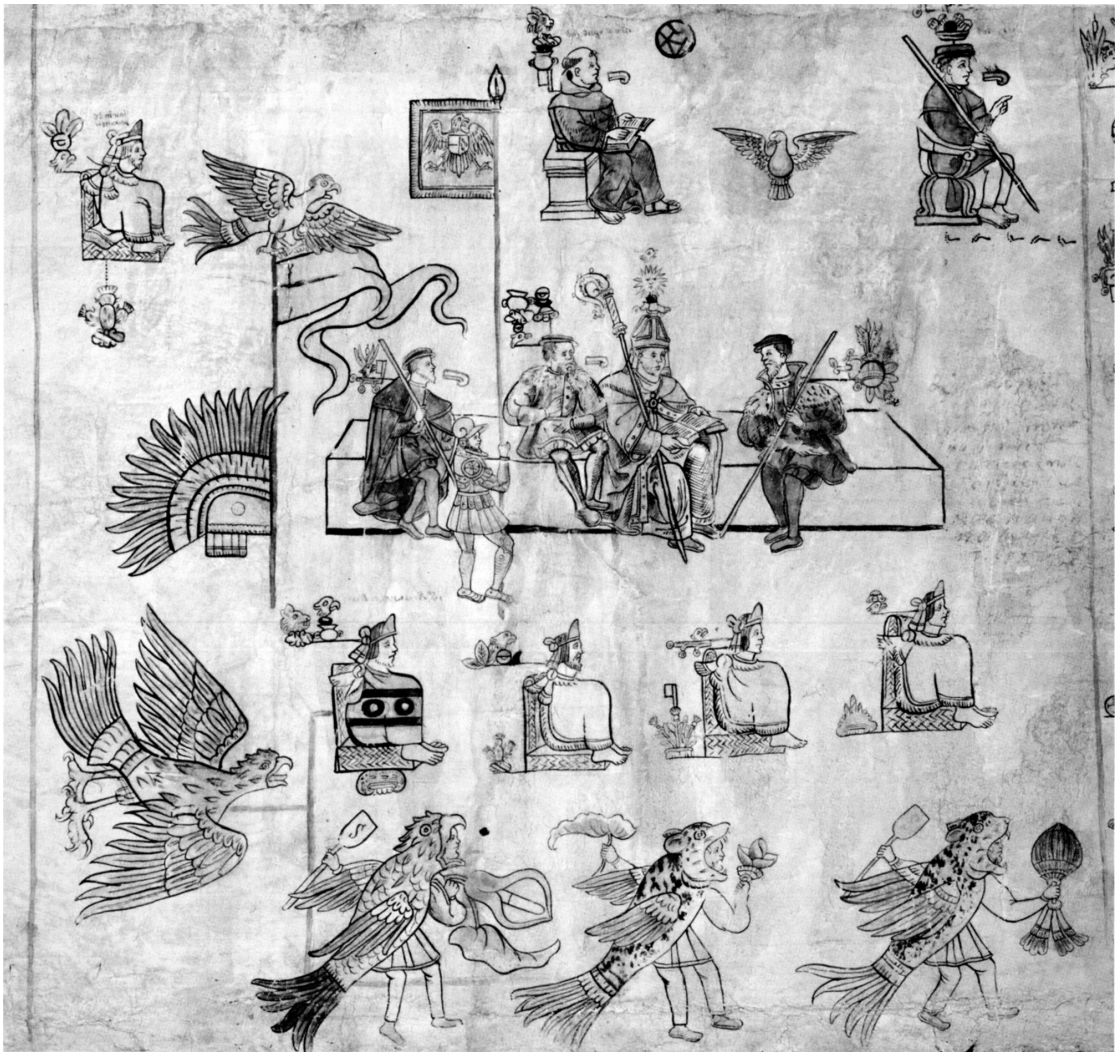

Figure 1. Codex Tlatelolco, illustration #8. Biblioteca Nacional de Antropología e Historia, Mexico City.

5 After Barlow and Valle, Barbara Mundy provided an interesting interpretation of illustration #8 of Tlatelolco Codex as a »valuable insight into the hybrid performance culture of Mexico City« prevailing in the first decades after the Spanish conquest, Mundy (2015) 180–185.

ly in 16th century New Spain. It depicts, on the one hand, a very specific oath of allegiance that serves as an example of the distinctive way in which Spanish and Western juridical and political frameworks were introduced into the Mexican high plateau soon after the conquests headed by Cortés and other Spanish captains. On the other hand, we can consider it an interesting and illustrative point of departure for reflecting on the complexities of such a process of translation and redefinition in complex societies already endowed with a legal tradition, such as that of the Nahua.

The kind of images depicted in the Tlatelolco Codex – above all, a traditional Native American way of juridical and historical representation adapted to the political context of the early decades of Spanish domination – encourage us to reformulate and revise previous ideas about the translation of laws and norms from Europe to America in the early modern period; a process often understood as a movement in one direction that consisted in the mere transplantation of European concepts and normativity into the empty spaces of the recently discovered American continent.[6] Consciously avoiding, on the other hand, an irenic vision of the so-called »encounter between two worlds,«[7] elements, such as the persistence of native ways of political and ceremonial representation (also important in the case of pictorial juridical sources for the Nahua region, as specialists in the field have pointed out studying litigation about land ownership and tributes[8]) and the important role played by native authorities in the administration of the land after the Spanish conquest, allows us to speak of a translation process moving in both directions. From this point of view, we can reflect not only on the extensive translation of European or Castilian normativities into the Viceroyalty of New Spain during the first decades of Spanish domination,[9] but also about the complex ways in which the highly developed Nahua juridical and institutional culture influenced the legal evolution in the Mexican high plateau – at least in 16th century.

In this article, I will focus on several writings and legal projects of a 16th century Spanish jurist, who better represents the creative dimension inspiring some of the proposals for adaptation of Castilian law to native legal custom in order to avoid what Gunther Teubner, reflecting on legal transfers between contemporary juridical systems, has called legal irritants.[10] I am referring to the *licenciado* Alonso de Zorita, *oidor* of the Audience of Mexico from 1556 to 1566. After a short introductory biography of Alonso de Zorita, which I consider necessary in order to understand how his juridical formation and experience as *oidor* in the Audiences of La Española, Guatemala, and Mexico helped him to offer a synthetic legal perspective of previous accounts on pre-Hispanic fiscal systems[11] in the Nahua region and the Americas, I will refer

6 As Eduardo Subirats (1994) denounced in the polemical essay *El continente vacío: la conquista del Nuevo Mundo y la conciencia moderna*.

7 An idealistic rearward-looking form of influencing, for instance, the official commemoration of the 5th Centenary of the Discovery of America and the series of Symposiums organized in Spain by the Sociedad Estatal Quinto Centenario. Cf. Borja / Mascareñas (1993).

8 Since the early decades of Spanish domination, Indian litigants were allowed to use maps and pictorial accounts elaborated according to pre-Hispanic forms of representation in lawsuits, Owensby (2008) 100. Some general accounts of the use of pictorial documents and pieces written in indigenous languages in the Nahua region in Harvey (1991) 163–185; Hill Boone (1998); Kellogg (1995); Kellogg / Ruiz (eds.) (2010); Martínez (2014); Mundy (2011) 56–60; Yannakakis (2008), (2013), (2014); Wake (2014), Wood (1998); Zwartjes / Zimmermann / Schrader-Kniffki (2014).

9 For this geographical area, recent contributions have shown the value and complexity of the extremely original adaptions and creations that, in the fields of public and canon law, were made by Spanish and *criollo* jurists in order to accommodate European Law to indigenous customs. Cf. Semboloni Capitani (2014), Moutin (2016).

10 Considering that the introduction of foreign rules into another legal system and discourse often causes turbulence and can put the order and coherence of the whole system at risk – above all, when the implications of legal transfers have been superficially evaluated. Cf. Teubner (1998).

11 To consider native fiscal customs as a part of indigenous legal systems existing prior to the European domination of the Americas is itself controversial. While some scholars speak only of Indian normativity, others emphatically refer to Native American legal systems. I, in turn, agree with the arguments in favor of considering indigenous customs on different issues as part of true legal systems. A general perspective about this discussion and about the replacement of the conceptual framework of »usos y costumbres indígenas« by the one of »sistemas jurídicos indianos« in Mexican and international contemporary law in Aragón Andrade (2007). Aragón considers this conceptual evolution as an important step in Native American peoples' search for legal recognition.

to some *cédulas*-questionnaires addressed by the Council of the Indies to Spanish officers in the Americas since the 1550s. This legislation encouraged the continued search for information about the topic. Using the contemporary conceptual framework on cultural translation developed by Peter Burke[12] and applied to studies on legal history by contemporary scholars such as Duve and Foljanty,[13] I will show how in this area and period a systematic knowledge of the context (population, customs, territories, resources, etc.) into which law needed to be introduced was (often) considered an indispensable preliminary step to providing good legislation. In the third and final part of the contribution, I will analyze the way in which Zorita, at the same time participant and critic of the movement initiated by the Council of the Indies in the 1550s, shared the general awareness of the need for a better understanding of Indian societies and customs, yet distanced himself from the homogenizing perspective prevalent in this influential institution, which was then followed in the 17th and 18th centuries by Solórzano and other prominent theoreticians of *derecho indiano*. While Ovando, López de Velasco, previous jurists, and royal officers merely wanted to know more about Indian societies and their cultural values in order to better understand the context into which Castilian law had to be translated, Zorita used the above-mentioned *cédula* to subvert previous approaches as well as to propose a very different means to build a harmonious legal system in the New World: the restoration of an idealized pre-Hispanic system of rule and social division. In this final section, I will specifically reflect on the linguistic issues implied by the choice of legal sources Zorita made use of. Here, the focus will be on the means he used (pictorial legal sources of the natives, interpreters, and translators) to obtain precise and first-hand information about the political and fiscal traditions he proposed to restore.

Alonso de Zorita is, indeed, one of the authorities represented in illustration #8 of the Tlatelolco Codex. He is depicted sitting on the left-hand side of the platform occupied by the main Spanish authorities in New Spain. The scepter of justice that Zorita holds in his right hand indicates his office, while the glyph in front of his head tell us that he gave an speech during the ceremony.

Zorita's major works were published in two important critical editions[14] at the turn of the century, thus setting the stage for future research. Legal and social historians, such as Andrés Lira[15] and Ethelia Ruiz, and even social anthropologists, such as Wiebke Ahrndt, have since made important contributions to our knowledge about Zorita's life and writings, thereby representing an improvement over previous books[16] dedicated to one of the most prominent figures in Spanish American Colonial Law. Nevertheless, a focus on the importance of Zorita's writings from the perspective of translation studies has never been undertaken.

Zorita, appointed as *oidor* of the Audience in 1556, wrote between the end of the 1560s (while already retired in Spain) and 1585, a *Breve y sumaria relación de los señores de la Nueva España*. It was a response addressed to a much earlier *cédula* or royal instruction issued in 1553, in which Felipe II asked the president and *oidores* of the Audience of New Spain for information comparing both the kind and amount of taxes the Indians paid under Moctezuma's reign as well as under the rule of the *encomenderos*. Up to that point, no other Spanish officer in the Americas had provided such extensive information and details about the fiscal customs of

12 Burke (2007).

13 Duve (2014), Foljanty (2015). For an overview on the debates about the concept of legal translation, cf. De Flores, Castagna Machado (2015).

14 Ahrndt / Zorita (2001); Ruiz / Leyva / Zorita (1999). While the *Breve y sumaria relación* had already been published at the end of 19th century (García Icazbalceta-Zorita, 1941 [first ed. 1891], Vol. III, 65–205), and was published in different editions after the pioneer work of García Icazbalceta, the vast *Relación de la Nueva España*, which provides additional information about fiscal practices in the pre-Hispanic era in its second book and addresses many other issues in books 1, 3 and 4, remained a manuscript source until 1999.

15 Lira (2006).

16 Till this day, the only biographical monograph dedicated to Zorita was written in English by R. Vigil (1987). Another important milestone in the study and circulation of Zorita's writings was the translation into English of his *Breve y sumaria Relación*, accompanied by an interesting introduction by its translator and editor. Keen / Zorita (1963). We will use Keen's translation of the *Breve y sumaria relación* when quoting this work.

Amerindian peoples prior to the Spanish conquest. Zorita's *Breve relación* and his other writings[17] reflect, on the one hand, the debates and different perspectives about a better way of translating European legal frameworks and traditions into the New World. On the other, it is related to the inquiries about indigenous fiscal and political customs instigated by the Spanish Monarchy in the second half of 16th century, and to the partial appropriation of this consuetudinary law that can be observed in the daily work of some Spanish judges and other royal officers since this period.[18]

The specific field of Zorita's research was fiscal law: an area in which he made major contributions with his numerous important descriptions and interpretations of the tributary systems of the natives of the Mexican high plateau, other territories integrated to the Vice-royalty of New Spain, and different regions of what is today Colombia and Guatemala: areas in which he held different judicial offices from 1547 to 1556 (shortly before his arrival in Mexico). In general terms, he offered a positive perspective regarding the indigenous tributary systems (considered to be an idealized vision of the pre-Hispanic era by most of the scholars working on his accounts[19]). His descriptions have been associated with the Franciscan projects asking Spanish authorities for a complete recognition of pre-Hispanic socio-political structures and customs on taxation.[20]

With regard to certain aspects, Zorita's *Breve y sumaria relación* is the best Spanish source we have for learning about the complex hierarchic system and customary laws of the pre-Hispanic Nahua region; a legal and political system that he described not only as being in accordance with natural law and the policy followed in the well-governed Christian republics, but also with regard to most of the prescriptions of the European canon and civil law.[21] The value of Zorita's work also stems from the fact that while writing his report, he had access to previous accounts treating the same topic written by Franciscan friars (Francisco de Las Navas, Andrés de Olmos,[22] etc.) that have since been lost – reports that are remarkable for their accuracy in the use of Nahua terms.[23]

A Short Biographical Approach

Among the Spanish jurists in 16th century America, Zorita was one of the most experienced. By the time he retired at roughly the age of 55, he had acquired a great expertise about the northern and central territories of the Spanish Empire in the Americas. Upon returning to Spain,[24] he dedicated himself to writing what would become his major works.

Both his family origins – with his father, the *hidalgo* Alonso Díaz de Zorita (relative of the prestigious Spanish captain Gonzalo Fernández de Córdoba), being one of the jurists that helped to administer the city of Córdoba[25] – and his studies in law[26] at the prestigious University of Salamanca served as an important preparation for becoming a judge. Zorita studied during one of the most prolific periods in the history of the University of Salamanca: between 1537–40. Experts on the School of Salamanca consider these years to be the starting point of the famous school of theology

17 The *Relación de la Nueva España* mentioned in footnote 14 and a *Parecer acerca de la doctrina y administración de los sacramentos a los naturales*, both of them written in the same period that the *Breve y sumaria relación*, and a previous *Cedulario* (1574). All of these writings remained as manuscripts until the 20th century. Bernal / Zorita (1985), Cuevas (1914) 331–354.

18 A topic to which scholars have increasingly started paying attention and that is nowadays considered one of the most fertile and innovative fields of Spanish American legal history. A selection of relevant publications can be found in footnote 8.

19 Ahrndt-Zorita (2001) 27; Vázquez (1992) 32.

20 See Baudot (1990) (1977).

21 Zorita had gone further than other apologists of the pre-Hispanic legal systems. In a number of respects, he considered them not only fairly compatible with natural and divine law, but also compatible with most of the prescriptions of European *ius commune*. Keen / Zorita (1963) 104: »From the above it is evident that, aside from the ceremonies, almost all they did in the matter of succession and election of their rulers conformed to Natural Law, and in some degree to the Divine Law, and even to Civil and Canon Law, although they were ignorant of this«. A similar point of view is found in his *Relación de la Nueva España*, Ahrndt / Zorita (2001) 180.

22 Ahrndt-Zorita (2001) 47–53.

23 Something that can be appreciated if we compare the terms in Nahuatl used in their socio-historic descriptions with those mentioned in contemporary books about Nahua-Aztec society and culture, such as the well known masterpieces written by Gibson and Lockhart. See the Glossaries of both books, in Gibson (1964) 599–605, Lockhart (1992) 607–611.

24 Ahrndt / Zorita (2001) 23.

25 Vigil (1987) 12.

26 Vigil (1987) 28.

and law. It was also a period in which the religious, moral, and political dilemmas arising from the conquest of the Indies were the subject of lectures and public debates at the University. Francisco de Vitoria, the most well-known theologian of the University of Salamanca in early modern times, held, at the end of the 1530s, the chair of theology and delivered two important and transcendent lectures (*Relectio de Indis*, *Relectio de Iure Belli*) on these topics.[27] Even if it is very improbable that the young Zorita – a student at the Faculty of Law – attended Vitoria's lectures,[28] he certainly would have been aware of some of the issues dealt with by Vitoria and which would upon completing his training later comprise the core of his own work.

His first legal experience, acquired as *abogado de pobres* (solicitor for the poor) in the Audience of Granada – a poorly paid office, whose exercise by a noblemen having studied at Salamanca would certainly have seemed strange – can also be related to his later concern about the abuses and humiliations endured by the Indians. The miserable status[29] accorded to Indians in Spanish American Law, in fact, closely resembled the juridical condition of the Spanish *pobres*. As such, it would be interesting to delve deeper into the professional tasks Zorita was occupied with in Granada before sailing to the Americas. It was often the case that such experiences were the very reason underlying the selection of a certain individual for a position in the Indies. In one way or another, it is pretty clear that this experience continued to inform the way Zorita understood and performed the tasks he was later assigned.

With regard to his legal career in America, Zorita obtained his first appointment as *oidor* in the Audience of La Española (May 1547).[30] Zorita's stay in Santo Domingo, the main city of the island La Española, was neither very long nor quiet. In January 1549,[31] his colleagues at the Royal Audience appointed him the judge in charge of taking Miguel Díez de Armendáriz's *residencia*[32] (Díez was accused of many injustices and abuses of his power as governor of the New Kingdom of Granada). Considering the power wielded by Díez's allies in the region, and in order to better accomplish this problematic assignment, he was even appointed governor of the New Kingdom of Granada by the Audience of La Española.[33] Zorita stayed in the New Kingdom of Granada from January 1550 to May 1552. During this period, he visited a significant part of this South-American region. His travels included Santa Marta and Río de la Hacha (in the northern Caribbean Region, where he arrived from Santo Domingo), Santa Fe (present Bogotá, the main city of the New Kingdom, more than 1.000 kilometers southern to the Caribbean coast), Tocaima and Los Panches (on the long Magdalena river) and Cartagena (west of Santa Marta in the Caribbean coast). Everywhere he went, he encountered a determined resistance against taking Miguel Díez's *residencia*. Reflecting on his travels some decades later while writing the *Breve y sumaria relación*,[34] he recounted and denounced the substantial abuses inflicted on the Indians by the Spaniards.

After this turbulent *residencia*, Zorita received a new appointment as *oidor* in the Audience of Guatemala – another conflicted destination – in July 1552[35]. Despite his work as *oidor* having been greatly appreciated by the most prominent inhabitants of Santo Domingo (integrated as *vecinos* in the *Cabildo* of the city), who even addressed a letter to the King asking the monarch to maintain Zorita as *oidor* of the Audience,[36] Zorita again had to set sail and in the summer of 1553 arrived in Santiago de Guatemala. During his three years of service, he made three *visitas*, »traveling where no Spanish judge had ever been« and »corrected abuses, made head counts, and moderated tributes.«[37]

27 An English translation of this *relectiones* in Pagden / Lawrance / Vitoria (1991).

28 Contrary to what is merely claimed – rather than proven – in the enthusiastic books written by Vigil and Rand Parish, see Vigil (1987) 30; Rand Parish / Raup Wagner (1967) 106.

29 See Cunill (2011), Duve (2004).

30 Vigil (1987) 41.

31 Vigil (1987) 97.

32 A court or trial held at the end of a term in office, Gibson (1964) 604.

33 While the Royal Council of the Indies created a new Audience in Santa Fe, and assigned to it governmental powers, it consequently weakened Zorita's authority.

34 Keen / Zorita (1963) 210.

35 Vigil (1987) 126.

36 On February 17, 1553. A document included in the compilation of letters written by the Cabildo of Santo Domingo to the Spanish kings and counselors in 16th century and edited by Rodríguez Morel (1999) 227–228. The biography of Vigil includes an English translation of this letter, Vigil (1987) 82.

37 Vigil (1987) 127.

In April 1556, Zorita left Guatemala after being appointed *oidor* of the Audience of New Spain. It is a matter of interpretation if his nomination was to be considered a promotion (for the city of Mexico was much wealthier and comfortable than Santiago de Guatemala, at that time) or a way to lighten Guatemalan *encomenderos* of a very critical judge, who they considered a disruption from the very beginning.

Starting in 1556, Mexico became Zorita's permanent residence, where he worked as *oidor* until 1566, when, being partially deaf and after almost 20 years in America, he decided to return to Spain and established himself in Granada. Zorita's tasks in New Spain were closely related to the ones he had performed in Guatemala. Above all, he tried to elaborate stable and affordable assessments of the tributes that the Indians had to pay to *encomenderos* and other secular and religious authorities; moreover, he constantly advocated for a reduction of taxes for the native population. Zorita's reflections clearly bear the stamp of the history of misfortune that occurred in the early decades of Spanish domination over Caribbean populations. He was well aware of the fact that fiscal abuses (in the forms of overtaxation and forcing the Indians to work under inhuman conditions) had led to the extermination of natives in La Española and in the northern regions of the New Kingdom of Granada.[38] While he was working in Mexico, Zorita travelled a great deal and covered vast territories as part of the census he was assigned to conduct for the Crown and the Audience.[39] The area where Zorita focused his activity was the central region of the country; a territory granted to Cortés in 1529 as a perpetual fief under the denomination of Marquesado del Valle de Oaxaca, a vast stretch of land including territories of the present-day Mexican states of Mexico, Michoacán, Morelos, Veracruz, and Oaxaca. The expansiveness of the region he had to »count« and supervise as well as the diversity of the native peoples given to Cortés as vassals and tributaries by the Spanish monarchy also influenced Zorita's legal writings, which were filled with very specific information and anecdotes about lesser-known indigenous towns and populations that no other jurist of this period had been in a position to speak about.

Translation as Justice. The Recovery and Respect of Prehispanic Fiscal Customs as a *sine qua non* for a Legitimate Dominion over the Indies

As several scholars have shown, tributes were at the core of intense political debates in all of the kingdoms and republics of medieval and early modern Europe.[40] Even Bodin, creator of the concept of sovereignty and clearly in favor of an absolutist royal government, expressed doubts in the 1570s about the legitimacy of establishing tributes without the consent of the subjects and contrary to kingdoms' fiscal traditions in his *Six livres de la République*.[41] In Zorita's *Breve y sumaria relación*, we also find a clear denunciation of assessment made without the consent of the subjects (in this case, the Indian vassals of Philip II), a clear element of tyrannical rule. As we can see in the royal *cédula* of 1553, to which Zorita intended to respond,[42] this was, in turn, taken into account by the jurists working in the Council of the Indies. The *cédula* (in article 12) expressly ordered the authorities of New Spain to provide specific infor-

38 Keen / Zorita (1963) 216: »I cannot believe that your Majesty or the members of Your Majesty's Council know or have been informed about what is taking place. If they knew of it, they would surely take steps to preserve Your Majesty's miserable vassals and would not allow the Indians to be entirely destroyed in order to gratify the wishes of the Spaniards. It the Indians should die out (and they are dying with terrible rapidity), those realms will very quickly become depopulated, as has already happened in the Antilles, the great province of Venezuela, and the whole coast of northern South America and other very extensive lands that have become depopulated in our time«. For another reference to the juridical condition of the Indians as miserable vassals, see 253.

39 Vigil (1987) 185–186.

40 I have studied the debates on the relationship between taxes, customs, and tyranny in 16th century France in Egio (2016).

41 Bodin (1579) [first ed. 1576] L. I, C. VIII, 140.

42 »Ytem como se hizo esta tassacion si llamaron los pueblos para la hazer, y que consideraciones tuvieron para la tassa, y si los pueblos dieron su consentimiento a la tal tassa, y como juntavan los pueblos, y que orden tuvieron en pedir consentimiento, y si fue forçoso el consentimiento y de libre voluntad«, De Puga (1563) f. 141.

mation about the kind of public consultation that should have taken place prior to the assessment of the tributes in every indigenous town. Three decades later, Zorita attested sadly that during his time as judge at the Audience of Mexico (soon after the reception and implementation of the above-mentioned *cédula*), natives were »summoned for the sole purpose of being counted« and »given no opportunity to present their views.«[43]

From the perspective of the former judge of the Audience of Mexico, respect for the fiscal customs and the social order that indigenous people had *at the time of their heathendom* was the second *sine qua non* condition of a legitimate tax implementation and domination of the Spanish monarchs over the Western Indies. In his opinion, if Felipe II and his counselors support or tolerate fiscal abuse and unfair innovations in the tributary system of the Indian republics (as it was usually denounced by natives and its intermediaries in the Spanish Audiences in the New World), the initially fairly Spanish domination over America (established with the pious justification of teaching the Indians the Gospel) could deviate from its original purpose and degenerate into a tyrannical rule. From Zorita's perspective, even if corruption and misgovernment have not yet influenced the system as a whole, a number of indigenous villages and towns could be considered tyrannical republics. They were indeed governed by usurpers,[44] former *macehuales*[45] not belonging to the lineages of native lords, established or supported by Spanish *encomenderos* in order to oppress the rest of the Indian commoners.

This kind of denunciation could have significant implications. According to the classical doctrines of the *ius commune*, both usurpation and fiscal tyranny – a kind of tyranny *ex parte exercitio*[46] – could legitimately be resisted by oppressed subjects. Under certain conditions, it would even be permissible to kill the tyrant and his ministers (judges, soldiers, tax collectors, etc.) and search for military assistance from other kingdoms and republics (the rivals of the Spanish monarchy, in this case, who could also legitimately intervene to support native upheavals caused by overtaxation and misgovernment).

The consensus about these tributary ideas was so widespread in early modern Spain that not only defenders of the Indians, such as Las Casas and Zorita, appealed to them when asking for a reduction of the taxes for the natives, but also Hernán Cortés, whose interests and purposes were completely opposed to those alleged by the protectors of the Indians, referred to the tributary traditions of the Indians when he justified the kind of *encomienda* and personal services that he decided to implement, disobeying the instructions that Carlos V had addressed to him in 1523.[47]

The discussion of this topic was, of course, quite vehement at the University of Salamanca, where Zorita had studied. Since the early decades of the 16th century, theologians, such as Matías de Paz, have written treatises asking the Spanish kings for a fair taxation of the Indians. Zorita's presence at the University of Salamanca offers an interesting element for interpreting his writings as an extensive legal application of the slight theological and political approach to the topic of Indians' taxation made by some of the theologians usually associated with the School of Salamanca. Nonetheless, Zorita's work should not be considered merely as a repetition of preceding doctrines. His writings represent by far one of the most complex and critical approaches to the matter of taxation in the Indies. He went beyond the proto-absolutist ideas that, first, Matías de Paz (in a small booklet redacted in 1512[48]) and, later, Francisco de Vitoria (in his well-known *De Indis Relectio Posterior, sive De Iure Belli*, 1539, and in previous lectures on Saint

43 For Zorita, »the interest of the Spaniards has been the only concern.« He persisted with his denunciation stating: »When the count has been made, it is carried to the Audiencia, which makes the assessment without any consultation of the people. There is no question of obtaining their consent, for the whole business is carried out in an arbitrary way, and against their will,« Keen / Zorita (1963) 230.

44 Zorita employed the legal and political categories of »usurper,« »intruder,« and »tyran« when referring to these kinds of local lords, Keen / Zorita (1963) 121.

45 A Nahuatl term meaning »peasant« or »Indian commoner,« Gibson (1964) 602.

46 A distinction established, among other jurists, by Bartolo de Sassoferrato, who spoke of two kind of tyrants: the one who did not have a fair »title« at the moment in which they acquired the throne (tyrants *ex defectu tituli*), and the one who oppressed their subjects, commonly called tyrants *ex parte exercitio*. On this conceptual distinction, see Quaglioni (1983).

47 Gibson (1964) 59. Duverger (2013) Chapter 1.

48 Entitled *Del dominio de los Reyes de España sobre los indios* (1512).

Thomas I-II 90–105 and II-II 10.8) had written on this topic.[49]

What we called a second condition of legitimate tax assessments – that is, respect of the fiscal customs and social order of the natives – was taken into account in the *cédula* of 1553, which was praised by Zorita for its fairness.[50] From the perspective of the jurists of the Council of the Indies, fairness was, indeed, not incompatible with efficiency. The *cédula* explicitly urged Spanish authorities in New Spain to construct a system of tributes adapted to Indian customs and to enact forms and amounts of taxation that the Indians could pay without being forced to give up their most basic necessities.[51] The members of the Council also evaluated taxation from a religious point of view; they considered the order by a Christian monarch to their subjects to pay higher taxes than that paid to their former Pagan rulers as a disgrace to the Christian religion. They referred to this theological dilemma as »a thing that matters very much to his majesty and is very convenient to the acquittal of his conscience.«[52]

At the core of a wide universe of opinions, Zorita's writings are especially interesting not only with regards to contemporary politico-juridical debates about taxation and tyranny. Trying to reconstruct Nahua customary fiscal practices (and often providing supplementary information about the ones of the Americans regions where he had stayed), he considered them legitimate *polices*, which were completely in accordance with natural law. Going a step further than jurists and theologians before him, Zorita called for the same respect for customary laws belonging to all the kingdoms and republics integrated into the Spanish Monarchy (regardless of whether they were European or American). Moreover, he initiated a campaign in favor of the study and integration of pre-Hispanic forms of taxation in the legal system the Spaniards were building and implementing in New Spain and other regions of the Americas.

Zorita considered traditional taxation not only the most just form, but also the only form that could, in fact, be implemented in New Spain and the Indies. Only by limiting their own greed and drafting petitions according to the customs of the conquered lands could royal authorities establish sustainable fiscal systems in the Americas. From this perspective, approval and cooperation of native aristocracies (partially asked in the decades immediately following the conquest of Mexico) was considered absolutely necessary. Among the Nahuas, only the literate nobility had, for Zorita, the linguistic abilities required to interpret pre-Hispanic legal sources, a complete knowledge about what each land and group of vassals could produce and pay as tribute, and even the natural virtues needed to serve as the indispensable moral guides and procurators of their people. From a multi-normative point of view, Zorita considered moral and religious values as grounding elements in a commonwealth. Consequently, he pointed to the dethronement of natural lords/moral teachers and the corresponding interruption in the transmission of knowledge and values that followed as the most important cause of the political and social confusion prevailing in New Spain.[53] A restoration of the previous harmonious order of the Nahua peoples would, therefore, only be possible if the

49 While for De Paz and Vitoria the most important justification for taxation was its contribution to the good of the commonwealth, as determined by the Prince's *recta ratio*, Zorita did not resort to this type of legal argumentation and considered, instead, the fact of a certain tax or kind of tribute being rooted in tradition as the main element conferring legitimacy to it. Zavala / De Paz (1954) 223, 253; Pagden / Lawrance / Vitoria (1991) 202, 325, 348.

50 For Zorita, a *cédula* in line with the »nuevas leyes y ordenanças de yndias« (the set of laws redacted and validated in 1542 under the influence of Las Casas) and with the »sancto y jurídico« corpus of royal legislation for the Indies, Ahrndt / Zorita (2001) 281.

51 Feed and marry their children, treat their sickness and even become rich if they were diligent good workers, De Puga (1563) f. 141.

52 De Puga (1563) f. 141v. The importance of conscience and dilemmas of conscience in early modern politics and especially in the administration of the Western Indies by the Spanish Monarch and royal officers has recently been emphasized by Brian Owensby in an evocative article pointing to the force of conscience as »a critical belief« influencing all levels of the Spanish administration in the Indies, Owensby (2015) 142.

53 Referring to these early years of Spanish domination, partially according to indigenous customs, and in a close collaboration with native lords: »The lords saw that the commoners paid their tribute, that they cultivated their fields and worked at their crafts, that they assembled to be assigned to service for the Spaniards. As a result the misdeeds and troubles that now abound were avoided. The lords also saw that the Indians attended classes in religious instruction and sermons, and they put down their vices and drunkenness,« Keen / Zorita (1963) 123.

ancient dignity of natural lords were restored and they were made equal participants in a *mestizo* system of rule. In order to benefit from their valuable cooperation, Zorita identified respect for the jurisdiction and rights of taxation exerted by pre-Hispanic lords as another *sine qua non* condition for the success of the whole fiscal policy to be implemented in New Spain.[54]

While other Spanish jurists of the early modern period only made passing reference to the topic of Indian diversity, Zorita took this idea very seriously. And because of the attention he paid to pre-Hispanic legal customs, Zorita stood out from the other *juristas indianos*. For example, we find reflections in Solórzano's writings[55] about the extreme diversity of the regions in the Indies[56] as an element justifying the elaboration of a specific *derecho indiano* as well as local legislation adapted to each of the major regions and populations of the New World. On the other hand, his *Política Indiana* (1648) and earlier works by other authors, such as the *Ordinances of the Council of the Indies* elaborated by Juan de Ovando (1571), state conclusively that the Indies, incorporated into the Castilian Crown in the form of an accessory union, »had to be governed, ruled and judged«[57] by the same laws that were applied in Castile.

Distancing himself from jurists in favor of a homogenization between the American republics and Castile, Zorita did not even mention the problematic notion of accessory union.[58] Instead, he considered legal customs to be one of the most relevant elements of the much-vaunted American diversity, exhorting his colleagues to take them into account in the process of creating new legislation. As a result of his almost 20 years of first-hand experience in the Americas, Zorita considered the proposed close translation of much of the contents of *ius commune* and Castilian laws into the Indies neither fair nor applicable.[59] In his writings he advocated a totally different approach and, to the best of his abilities, tried to promote an inverse translation process: the translation of pre-Hispanic legal customs (regarding fiscal policy, social regulation, public order, etc.) into the, up till that point, slightly *mestizo* legal framework under construction in New Spain.

54 Only making ancient lords participate in the distribution of the taxes perceived over Indian commoners, could Spanish colonists expect their active cooperation in the collection of the tributes and benefit from their experience in the control and political education of native populations, Keen / Zorita (1963) 252.

55 Especially on L. I, C. IV, »De la naturaleza, excelencias, y cosas raras del Nuevo Orbe«, Solórzano (1972) [first ed. 1648], 41–49. Following José De Acosta (De procuranda indorum salute, 1588), Solórzano also thought that given the completely new circumstances of the New World, e. g. the diversity of regions, peoples, and weather conditions and their changing nature, it would be very difficult to transplant Roman or Spanish legislation into it or maintain a stable legal framework, Solórzano (1972) [1648], L. V, C. XVI, 260.

56 Different with regard to Europe as well as amongst themselves. For a general account of the link between the diversity of the peoples of the Indies and the complex moral and juridical problems raised by it, see Elliott (1987) 76. An explanation of the wide scope of *derecho indiano* as a consequence of the radical diversity of the New World, in Luque Talaván (2003) 233–234.

57 Solórzano stated that even Spanish customs had to be introduced little by little in the Americas. Solórzano (1972) [1648] L. V, C. XVI, 263: »La qual ordenanza, como ella lo entra diciendo, tiene su origen y fundamento de la vulgar doctrina que nos ensena, que los Reynos y Provincias que se adquieren de nuevo, pero uniéndose e incorporándose accesoriamente á otras antiguas, se han de governar, regir y juzgar por unas mismas leyes (…) y juntan mucho más (poniendo especificadamente el ejemplo en las de las Indias) Juan Orozco, Burgos y Christóval de Paz, Barbosa, Acevedo, Claperio, Valenzuela, Carrasco y otros muchos Autores, que aun lo estienden, diciendo, que no sólo proced esto en las leyes, sino también en las costumbres, porque asimismo las que se hallaren legítimamente introducidas, prescriptas y observadas en el Reyno antiguo, se han de guardar y practicar en el que de nuevo se uniere é incorporare en él accesoriamente, probándolo con algunos textos y autoridades dignas de notarse en esta materia«.

58 On this concept, see Elliott (1992), Gloel (2014).

59 An idea that he insisted on in the introductory paragraphs of the second part of his *Relación de la Nueva España*, Ahrndt / Zorita (2001) 129–130: »(…) que esto sea verdad nos lo muestra muy a la clara la expiriençia çierta que dello se tiene mayormente por los que an gobernado aquel nuevo y latissimo mundo de las yndias del mar oçeano porque cada dia susçeden en el cosas nuevas y no pensadas y que no conviene en ellas guardarse el rrigor y orden del derecho comun«.

The Cédulas and Questionnaires of the Period between 1553 and 1584. Instructions for a Broad Cultural Research and the Foundations of a Complex Process of Legal Translation

The objectives that the Crown and the Council of the Indies purported that the *cédulas* and questionnaires mentioned above were aiming at were, first, to gather strategic information about indigenous political hierarchy and legal customs, and, second, to use the results of the previously ordered historical and socio-economical inquiries to elaborate a fiscal policy partially based on Indian custom and benefiting from the consent of the governed. This was no easy task, for it was very difficult to build a system that aligned both the general economic objectives of Spanish tributary policy and the special care with which the taxation of natives and their compulsion to work had to be evaluated after the dramatic extermination of Taíno and Caribe peoples due to overwork and exhaustion. The violent rebellions and persistent critiques that *encomenderos* addressed at the fiscal laws contained in the *Leyes Nuevas* of 1542 (Gonzalo Pizarro's rebellions in Peru, 1544–48, and Martín Cortés' aborted plot in Mexico, 1566[60]) contributed further dramatic tension to an already turbulent atmosphere.

The exact royal *cédula* mentioned by Zorita in the *Breve y sumaria relación* in order to justify »how this relation came to be written, and why it was not written until now,«[61] was issued at Valladolid on December 20th, 1553.[62] As Zorita pointed out in several letters addressed to the King and the members of the Council of the Indies, which served as an introduction to his work, the members of the Audiences of the Indies were basically ordered »to inquire who were the lords of the land, what tribute the natives paid them in the time of their heathendom, and what tribute they have been paying since they came under the Royal Crown of Castile.«[63] In these introductory letters, Zorita apologized for responding to the royal orders so late. In fact, according to the current research on Zorita and his *Relaciones*, he finished his response to the petitions of the Crown in 1585, more than 30 years after the royal *cédula* mentioned above was originally issued. Taking this into account, both Wiebke Ahrndt and the legal historian Andrés Lira consider the *Breve y sumaria relación* to represent a very belated piece of advice. However, this advice was, in fact, no longer required by the Crown. Instead, it served as an opportunity for Zorita to once again impress upon the jurists of the Council of the Indies the importance of considering Indian legal customs.[64]

In accordance with his strategic motivations, Zorita could have quoted instructions and questionnaires about native tributes issued by the Spanish Monarchy some years before he concluded the drafting of his *Relaciones*. The kind of research stimulated by the Council of Indies with the *cédula* of 1553 became a trending topic after the *visita* and reorganization of the Council of Indies by the jurist Juan de Ovando, who was appointed president of this important institution in 1571. Even before his appointment to this prominent position (in 1569), Ovando elaborated and sent Spanish

60 A few months prior to the discovery of the plot, Zorita had publicly faced some of the *encomenderos* and authorities (Martín Cortés, Alonso Chico de Molina, Diego Rodríguez de Orozco) involved in the plans supposedly aimed at enthroning Martín Cortés as king of New Spain and to abolish the legal protection that the Spanish kings had accorded to their Indian vassals. Zorita resigned his position and left New Spain one year before the plot was discovered. He could not, therefore, take part in the investigation and trials against the participants in the Cortés-Ávila conspiracy. Vigil (1987) 229–234, Vincent (1993), Flint (2008).

61 Keen / Zorita (1963) 84.

62 Zorita used the version of the royal *cédula* addressed to the judges of the Audience of the Confines (Guatemala), where he had been working before moving to Mexico. I have consulted the version of the *cédula* received by the viceroy and *oidores* of the Audience of Mexico, very similar to the one Zorita used in the process of elaboration of his *Relaciones*. It is included in the *Cedulario de la Nueva España* de Vasco De Puga, ff. 140v–141v. A very similar version of the *cédula* can be found in Scholes-Adams (1957) Vol. IV, 17–23.

63 Keen / Zorita (1963) 84.

64 Which, in fact, were little by little abandoning this pattern of fiscal regulation and, in general terms, the interest in pre-Hispanic cultures after the death of the jurist Juan de Ovando, president of the Council of the Indies from 1571 to 1575 and main inspirer and promoter of proto-ethnographic legal and cultural research about the indigenous peoples of America. Ahrndt / Zorita (2001) 25–26; Lira (2006) 374. The fact that Ovando was so interested in knowing more about the pre-Hispanic era did not mean that he intended to re-establish indigenous legal customs, as Zorita apparently had wanted. For more on Ovando as a key political figure promoting an in-depth inquiry of Indians cultures, see Poole (2004) 140–144.

officers and high-ranking clergymen in the Indies a 37 chapter questionnaire asking for descriptions of American provinces. This questionnaire was more sophisticated and detailed than the *cédula* of 1553.[65] Later questionnaires addressed to secular and ecclesiastical authorities continued this refinement process, the complexity of which went hand in hand with the significant increase in the number of chapters.[66] The *cédulas* signed by Felipe II in 1572 and 1573 (the important *Provisión del bosque de Segovia*) represented a royal endorsement of the inquiries ordered by Ovando.[67] After his death in September 1575, Juan López de Velasco,[68] appointed by Ovando as official chronicler and cosmographer, played an important role in the elaboration and dispatch (in 1577 and 1584) of new questionnaires and instructions. With regard to native customs and to the conditions under which the Indians were ruled and taxed before and after the arrival of the Spaniards, these were even more systematic than the preceding ones.[69]

The interest in ethnographical issues, pre-Hispanic history, and legal customs did not survive long after Ovando's death. Fearing that the inquiries ordered might be used in anti-Spanish propaganda or arouse a dangerous sense of nostalgia among the literate Indian noblemen conducting some of the research, in 1577 the Crown ordered the confiscation of all the proto-ethnographical writings issued since the middle of the century.[70]

Although by this time he was retired, Zorita was probably informed about the reissue of the 1577 questionnaire in 1584 and decided to send his *Relaciones* to the Council of the Indies a year later in order to make his voice heard in a still open enterprise. In the turbulent context described above, it was hoped that the erudite and well-informed intervention on the part of a retired jurist such as Zorita, whose experience and professional trajectory were unparalleled, might encourage a change in the official criteria restricting research on Indian customs and antiquities, and reverse the current homogenizing trend in the legislation unfolding in the Indies. At least that was the aim of the elderly, yet still combative Zorita.

Having retired in 1567 and, therefore, not having direct access to the royal instructions issued after this point in time, Zorita probably had to go back to the *cédula* of 1553 in order to formulate his response to the kind of questions that the Council of Indies was (still) asking in 1584. While the solution presented in this erudite imbroglio is of little relevance to the purpose of this article, what I nevertheless find particularly interesting about the questionnaires elaborated by the jurists of the Spanish Monarchy between 1553 and 1584 and in some of the responses written by royal officers is the awareness of the complexity involved in the legal translation processes between Europe and America. From a legal historical perspective, the information about territories and peoples Ovando and López de Velasco obtained from 1569 to 1584 (preceded by less determined initiatives, such as the cédula of 1553) should be conceived in terms of general and essential information of fundamental importance to legislative processes as a whole and, more specifically, for the complex processes of legal translation.[71] The translation encouraged by Castilian jurists and bureaucrats in the second half of the 16th century represents, in fact, one of the most complicated and intense attempts to date.

A general overview of the *cédulas*, questionnaires, and reports elaborated in the period between 1553–1584 shows that it was precisely a deep methodological awareness of the information needed in the legislation and legal translation processes that motivated their elaboration during

65 On the versions of the 1569 questionnaire and the answers provided by prominent clergymen and royal officers in New Spain, see Diego Fernández (2010).

66 While the *cédula* of 1553 was divided into 18 chapters, the questionnaires of 1573 and 1575 included 135 chapters and 50 questions, respectively, Poole (2004) 142.

67 Ahrndt / Zorita (2002) 25.

68 On the historical and geographical writings and projects of López de Velasco, see Portuondo (2009), especially Chapter 4, 141–171 and two beautiful writings by Barbara Mundy (1996) (2011).

69 Ahrndt / Zorita (2002) 26. Poole (2004) 144.

70 For a detailed analysis of the political reasons that were motivating, first, the great interest in pre-Hispanic cultures showed by the jurists of the Council of the Indies and, second, the measures of confiscation and censorship put into practice by Juan de Ovando's successors in the presidency of the Council, see Baudot (2004) 347–378.

71 Following in the footsteps of Pierre Legrand, Glanert, and Hirsch, Lena Foljanty has recently problematized legal transfers and conceptualized them as processes of cultural translation operating in extremely complex ways. See Foljanty (2015) 16.

a critical moment in the Spanish rule over the Indies. Given that previous legal frameworks were connected to the violence and brutality inflicted upon the fragile body of Indian societies, thus represented one of the more important causes of the dramatic diminution of the former population,[72] Ovando, and other supporters of geographical and proto-ethnographical inquiries, pointed to the need for understanding the realities of these almost completely unknown and mysterious lands and peoples before any new attempts to come up with laws were made. A better administration of the Indies as well as a convenient and stable legal framework would only be possible in the overseas territories of the Spanish Monarchy if a wide cultural and geographical assessment of the New World were officially undertaken. However, lacking its own legal criteria, America would remain a »poorly understood continent,« and full of »blind,« misinformed jurists[73] who will continue to alternatively support the claims of conquerors-*encomenderos* as well as those of individuals presenting themselves as protectors of the Indians. As a result, inappropriate legislation (e. g. not taking into consideration the conditions of the lands and the needs of the people to which this legislation is addressed) would still be created, dispatched, proven to be counterproductive, criticized, and then abolished – just as it had been the case during the first seven decades of Spanish presence in America. In this period, knowledge and information were considered the means enabling Spanish jurists and bureaucrats to escape the vicious circle of ill-informed legislation. In doing so, they also hoped to avoid the imminent extermination to which the American native population seemed condemned during the first period of Spanish colonization.

It is important, therefore, for the history of legal translation to focus on the complexity of the research ordered by the *cédulas* and questionnaires of the period between 1553–1584 as well as on the interrelationship existing between the different topics that interested the Spanish Crown at this time. Starting from the still rudimentary inquiry ordered by the *cédula* of 1553, we can see that after a very precise and somewhat abrupt initial question about the quantity of tributes payed by Indians »at the time of their heathendom« (chapter 1), the following chapters of the questionnaire focused on the social and legal order existing in pre-Hispanic times. The authors of the *cédula* wanted – more concretely – to have basic information about the different kind of lords (universal and local) to whom tributes were given the means by which they acquired lordship, as well as the power and jurisdiction that these lords exercised over their subjects before and after the conquest.

The Council of Indies was interested not only in pre-Hispanic lords, but also in the traditional forms of owning and cultivating the land. In order to determine the tributes, it was necessary to know whether those individuals cultivating the land also owned it or, on the contrary, whether they were only *solariegos* living on the lands belonging to their lords and were, therefore, obliged to pay them tributes and were subject to their jurisdiction. Obtaining this basic social and economic information was, in fact, a prerequisite for understanding the indigenous fiscal system and calculating the amount of tributes to be paid. Additionally, cultural topics such as the ideas about honor and social acknowledgment in the pre-Hispanic era were taken into account by the jurists of the Council. They wanted to know, for example, if tributes were paid as a form of compensation for protection, renting land, or, if they were indeed symbolic in nature, i.e. a kind of recognition of a lord's preeminence. The magistrates asked for this information in order to clarify whether Indians societies were organized according to the European-Christian patterns characterizing a three-estate system[74] or whether »tributes were also paid by merchants or other kind of people.«[75]

72 For example, the introduction of the Western institution of slavery in the Americas, whose lethal effects on the Indian population were denounced by López de Velasco, López De Velasco (1894) 26, 33–34.

73 Motivations pointed out by Arndt Brendecke in his enlightening, »Imperio e información. Funciones del saber en el dominio colonial español.« Brendecke (2012) 307–366. A book published first in German, Brendecke (2009).

74 The *cédula* expressly asked »if there were among the Indians some kind of persons that were exempted from paying tributes.« The tripartite political, social, and economic order of European monarchies was, at this time, considered as a natural and universal order. This political axiom was also at the core of Zorita's defense of Native American noblemen, taken as natural masters unjustly deprived of their ancient privileges and replaced by Spanish and Indian upstarts. Zorita / Keen (1963) 199.

75 De Puga (1563) f. 141.

The research and assessment concerning tributes ordered by the Spanish Monarchy in 1553 included, as I have shown, the basic social and cultural questions, which were considered as key requisites for understanding what – at least for the case of the Nahua region – was a very complex and stratified system of taxation. This system was derived from social structures and conceptions about honor neither coincident nor always compatible with Western ideas and institutions.[76] Further *cédulas* and questionnaires elaborated by the jurists of the Council of the Indies, chroniclers, and cosmographers followed this line of research and made it even more complex. A close reading of the 50 chapter questionnaire, written by López de Velasco and dispatched to Spanish authorities in the Americas in 1577 and 1584,[77] reveals the consolidation of a dynamic accumulation of knowledge; one considered indispensable for supporting the ongoing legal translation processes that took place between Castile and the Indies.

Significantly entitled, »Instructions about the reports that had to be done for the description of the Indies, ordered by His Majesty to promote their good government and ennoblement,« López de Velasco's questionnaire went deeper than previous social and cultural research endeavors and widen the field of analysis to include cultural history, items related to navigation (relevant to towns located close to oceans and rivers), and landscape. Scholars, such as Mundy, had privileged the properly geographical questions addressed to royal officers and tended to consider López de Velasco's questionnaires to be elements of a vast proto-scientific program – one essential to the mapping of the Indies.[78] However, I think cartography only played a secondary and instrumental role in what was primarily a legally-oriented endeavor. The questions about tributes, social order, and political hierarchy in heathen times already asked in the *cédula* of 1553 were repeated in López de Velasco's questionnaires.[79] Furthermore, almost all of the geographical information the officers and clergymen were asked to compile and communicate can be related to the economic and juridical interests of the Crown. In this regard, numerous questions dealing with issues of weather, demography, topography, fauna and flora were clearly not driven by curiosity or erudition, but were asked in order to pave the way for further evaluations of lands, resources, and inhabitants.[80] The internal logic of such a broad research seems to be determined by the guiding idea that by making the information about the water resources, mines, native and cultivated trees, wild and domestic animals (among many other resources) of every region of the Indies available to the jurists of the royal councils, it would be easier to build an adequate framework for fiscal policy (a never-ending headache for legislators), both with regards to the adjustment of previous tax assessments or when it came to imposing new ones coming directly from the peninsula, especially in cases where local authorities failed to reach agreements.

In conclusion, while contemporary scholars continue to emphasize the great importance of the chronicler-cosmographer Juan López de Velasco's writings and his projects in relation to the history of science and mapping,[81] their great significance for legal history should also be recognized. In fact, in his own response to the previous questionnaires, i. e. the huge *Geografía y descripción universal de las Indias*, finished in 1574,[82] López de Velasco justified his colossal research, compiling,

76 For information on the Nahua socio-political thinking at the core of the pre-Hispanic taxation system, see Lockhart (1992) chapters 2–6, and see the still instructive book by Gibson (1964). These two works were important milestones in the redirection of the research about Nahua tributary practices, and they contributed to a partial refutation of what José Miranda, having only dealt with sources written in Spanish, wrote in the 1950s. Miranda (2005) [first ed. 1952].

77 English translation in Mundy (1996) 227–230. A contemporary transcription and study of the original Spanish source in: Rojas (1993) 117–124.

78 Mundy (1996) 20–23.

79 »14. Who were their rulers in heathen times? What rights did their former lords have over them? What did they pay in tribute? What forms of worship, rites, and good or evil customs did they practice,« Mundy (1996) 228.

80 Questions of this type are included in chapters 2–5, 16, 17, 19–31, 33, 46, 47, and 49. Even some of the specific geographic data applicable to the mapping of the territory (for example, chapters 7 and 8) seems to have being asked in order to determine if Indians could easily travel from their towns to the major cities of *cabeceras* in order to pay tributes and provide the personal services required by their lords and Spanish authorities.

81 Considering that his »attempts to make the New World knowable through maps rank among the high cosmographic achievements of the sixteenth century,« Mundy (1996) 11.

82 But not published until 1894.

and ordering efforts about »Indian matters« by appealing to the importance of the information gathered for governmental action. He focused explicitly on the need to provide royal councils with independent and trustworthy information and pointed to the fact that this information would enable jurists and counselors to have access to an indispensable repository of knowledge, thereby breaking the previous dependency on the partial and contradictory accounts provided by American litigators. According to López de Velasco, only if equipped with a solid cultural, geographical, and legal background could royal councils undertake legislative processes in a more reliable and accurate way.[83] Within the wide spectrum of what he considered »cosas necesarias en materia de gobernación,« his *Geografía* included geographical information (topographic and hydrographic elements, descriptions of the coasts, etc.) about every American region under the control of the Spanish Monarchy and a general account about the main characteristics of the New World: demographic, meteorological, botanical, zoological, geological, and ethnological issues were taken into account in the first chapters of his *Geografía*. The cosmographer paid special attention to the natives' political, religious, and moral customs as well as described the system of rule and religious indoctrination put into practice by Spanish authorities into the Americas until 1574.

Zorita's Perspectives on Legal Translation. Social and Cultural Knowledge, a Prerequisite to Building a Legal System

The two *Relaciones* that Zorita finished almost a decade after the redaction of the *Geografía y descripción universal de las Indias* opened up a completely new perspective on the way in which a juridical order could and had to be constructed in the Indies. While previous jurists and men of letters had demanded their subordinates to collect information and data about land resources, native social structures, and legal customs in order to know more about the context into which Castilian law and *ius commune* would have to be transferred, Zorita reversed previous trends and opted for the recovery of Nahua and Native American legal customs as the only way to ensure fairness and stability in the overseas territories incorporated to the Spanish Monarchy.

Zorita's commitment to the indigenous legal systems is interesting not only for its pioneering character, but also for the lucid reflection about linguistic issues that the jurist made while justifying his personal engagement. Endowed with a good sense of intuition and a vast and erudite culture, Zorita was not a jurist confined to just technical issues. He was an intellectual able to contextualize and understand Nahua culture by contrasting it with the pagan cultures of Antiquity. Being quite familiar with the writings of the Apostles and Church Fathers, he attempted to show that the major social and political challenges connected with the co-existence of Christian, Pagan, and neophytes in early Christianity paralleled those that took place in early modern America.

In his *Relaciones*, Zorita quoted, for example, the well-known *Letter to Pammachius* (written in 395, and also called *De optimo genere interpretandi*), written by the Latin Father Jerome of Stridonius in order to explain and justify the methodology applied to his translations from Greek to Latin, where he constantly advocated for rendering »not word for word, but sense for sense.«[84] Appealing to the authority of Jerome, Zorita attached great importance to the linguistic abilities needed to

83 López De Velasco (1894) VI–VII: »Por entender lo mucho que ynporta que este Real Consejo aya Relacion cierta y particular de las cossas de las yndias para endereçar el buen Govierno dellas: he recopilado con la mayor brevedad que he podido desde al añode setenta y uno que fui provehido en mi officio esta Geographia general de las yndias que a V. A. presento: en la qual se hallará relación cumplida, quanto se a podido haver de lo que son las yndias generalmente y particular de cada tierra y provinçia de lo descubierto y poblado, con los pueblos y las otras cosas necesarias en materia de gobernación. A V. A. suplico la reciba en servicio y la favorezca con tenerla presente, para que los que de aquellas partes vinieren informando de las cosas dellas con relaciones endereçadas solo al fin de sus pretensiones: no den ocasion a que este Real Consejo se ordene o provea cosa que no sea tan del servicio de Dios y de su A. como V. A. desea en Madrid primero de setiembre de M. D. LXXIIII Años.«

84 Jerome (2012) 23. The fact that this letter appears as the first text included in the famous and re-edited *The Translation Studies Reader of Lawrence Venuti* is itself a good indicatory of its importance for the history of translation and studies on translation.

understand the sense of Nahua speeches concerning ethics, worldview, and customs as well as to the capacity of appreciating their beauty:

> Quando alguna vez yva algun señor ynferior o algun principal a visitar al señor supremo o a lo consolar de algu[n] trabajo que le avia susçedido le hazia un rrazonamiento que contiene buenos avisos y en su lengua paresçe y suena mejor que no traduzido en otra porque como el glorioso sanct g[e]r[oni]mo dize en una epistola que escrivio a pammachio que se intitula de optimo genere interpretandi que comiença paulus apostolus cada lengua tiene su propia y particular manera de hablar y lo que se escrive en una lengua no suena tambien como en ella si en otra se traduze (…).[85]

From a philosophical and linguistic point of view, Zorita's refutation of the fallacious assimilation between the »barbarian« and the »uncivilized« also deserves thorough analysis, especially since he based his rejection upon an interesting etymological research of the word »barbarian.«[86] According to Zorita, the term was created by Greeks and Romans to refer to »peoples of different speech« or »custom.« Nevertheless, for philosophers and historians of the Antiquity, the adjective »barbarian« did not imply any kind of negative connotations, which stands in stark contrast to the early modern period, where the »barbarian« was unduly equated with the »uncivilized,« lacking in manners and intelligence.

Coming back again to the specifically juridical dimension of Zorita's writings, it is important to mention that, on the one hand, he went further than previous jurists in his consideration of social and cultural knowledge as a prerequisite to building a legal system. From this perspective, he focused on the principles of social organization and cultural values of the Nahua people, and, by making use of writings previously elaborated by missionary friars, he was able to provide extensive accounts regarding numerous topics related to indigenous history, worldview, and traditional patterns of interaction – all of which were identified as elements to be taken into account in the legislative process. On the other hand, Zorita stood out among the first Spanish jurists (along with Polo de Ondegardo in the Viceroyalty of Peru[87]) advocating the restoration of the Indian *fueros* (customary laws and privileges) as the only way to avoid what, at this period in time, was perceived as the imminent annihilation of Native American peoples. The restoration of the laws that, according to Zorita, had allowed the Indians to survive and proliferate for centuries clearly implied the need to carry out exhaustive inquiries of the native legal sources and find suitable methods for translating them. Since Zorita dealt specifically with the complexities of intercultural legal translation in the early modern period, his reflections are very important for the history of legal translation.

Zorita's writings can be perceived, therefore, as the critical culmination of the official tendency to the rise in interest and attention paid to pre-Hispanic regulation of tributes and other elements of policy. On the one hand, he took royal instructions to their logical extreme, thereby satisfying the royal will to have an exhaustive account of the fiscal policy in force until the Spanish conquest. On the other, Zorita indeed used the information collected to undermine the juridical homogenizing perspective predominant in the legislation of

85 Ahrndt / Zorita (2001) 151–152.

86 Here, he made reference to such authorities as Aristotle, Plato, Seneca, Cicero, Pythagoras, Lactancius, Jerome, Paul, Hermes Trismegistus, and Martial. By appealing to the references made by these authors to the term »barbarian,« Zorita was able to equate Nahua and Egyptian peoples, both of whom were with regard to the differences of language, customs, and religion considered »barbars,« but, nevertheless, »peoples of great good order in government and ruled by many just laws,« Keen / Zorita (1963) 171.

87 Polo de Ondegardo wrote in 1571 an interesting text, »Relación de los fundamentos acerca del notable daño que resulta de no guardar á los indios sus fueros.« Together with Zorita, he advocated the need for a better understanding of indigenous legal customs and for the general respect thereof, to the extent that the customs did not stand in direct opposition to natural law. Polo de Ondegardo (1872) 7: »(…) porque dado caso que en alguna manera se les debiese poner otra en algunas cosas que paresçiere no combenir a la buena poliçia, no avia de ser tam presto ny sin entender la suya propia, que tantos años a que se guarda entrellos por ley ymbiolable, mayormente estando determynado por los teólogos la obligaçion que ay de guardar sus fueros y costumbres quando no rrepunasen al derecho natural.« On Polo de Ondegardo, see González Pujana (1999), Lamana Ferrario (2012) and the recent review of the academic historiography about this chronicler-jurist written by García Miranda (2015).

his time and which would have continued to prevail among the Spanish jurists dealing with *asuntos de Indias*. In this way, while the *cédula* of 1553 and later Ovando, López de Velasco, and Solórzano only wanted to find out more about Indian societies and their cultural values in order to better understand the context into which Castilian law and the general principles and provisions of the *ius commune* had to be translated – thereby paying, generally speaking, little attention to an undervalued indigenous law,[88] Zorita used the above-mentioned *cédula* to subvert the previous approaches and propose a very different means for constructing a harmonic fiscal and political system in the New World: the restoration of an idealized past, to which he always referred with words of praise.[89]

As an example of the singularity of Zorita's reasoning, it is important to mention that in his extremely tardy response to the *cédula* of 1553, he dared to alter the order of the questions addressed to the governors, judges, and clergymen. Following criterions more conducive to demonstrating the results of his rigorous and more comprehensive research focus (not so far removed from the order contemporary scholars now consider logical when speaking about the social and economic organization of a certain society) than the almost purely economic ones used by the jurists of the Crown, Zorita began his account by asking the most basic questions: the ones related to the political ideas and cultural values that, as the core beliefs of rulers and ruled in pre-Hispanic Anahuac, were taken as principles of social organization, division of work, and distribution of land among the Nahuas.

As I already mentioned, the Council of the Indies was primarily interested in having a brief account of the tributes the Indians paid under Moctezuma's domination (already converted into Spanish *pesos de oro*). This petition was stipulated first in a *cédula* written primarily with the convenience of future readers of the reports sent from the Indies in mind. Zorita decided to ignore these fiscal priorities and to order the results of his research according to his own outline. In this way, while other responses to the *cédula* strictly adhered to the instructions and order of topics set out by the Council of the Indies,[90] Zorita decided to first clarify the most basic social questions. At the beginning of his *Breve y sumaria relación*, he showed how indigenous societies were structured and which philosophical and religious ideas were important for grasping their conceptions of honor and social acknowledgement.

88 For example, López de Velasco, supposedly one of the better informed royal officers regarding Indian legal and political customs, just repeated and reproduced negative stereotypes and prejudices about them – prejudices and stereotypes spread by the most ill-informed chroniclers (López de Gómara, Fernández de Oviedo, etc.) – while treating these topics in the shortest section of his *Geografía* entitled, »the government and republic of the Indians,« López de Velasco (1894) 29: »Su gobierno y manera de república en la mayor parte de lo descubierto no era, ni en lo que está por conquistar es, de manera que merezca nombre de gobierno ó república, salvo en la Nueva España el imperio de Moctezuma, y en el Pirú el de los Ingas, que aún se tiene entendido que procedió de tiranía más que de elección ni buen gobierno; y así los naturales eran muy vejados de tiranía y malos tratamientos, porque no tenían cosa exenta ni libre de la voluntad del señor, hasta las personas, tanto que afirman que decía el Inga, que para tenerlos sujetos habían de matar de cinco en cinco años la tercia parte dellos, y así por cualquiera delito mataban al delincuente y á sus deudos y parientes, y á los pueblos enteros, y toda una provincia si era menester (…). El imperio de Moctezuma parece que tuvo mejor principio, y así fué más justificado, aunque todos gravados y oprimidos de sus señores.« The restoration of Indian legal customs had, therefore, seemed to him total nonsense.

89 A system that had been respected during the initial years of Spanish domination, in which only the universal lord (Moctezuma) had been replaced by the Spanish kings, while local lords kept on governing their subjects in a fair and harmonious fashion. Idealized descriptions of this former state of affairs can be found in Keen / Zorita (1963) 113–115, 126.

90 For example, in the six interrogations conducted by viceroy Luis de Velasco and the judge of the Audience of Mexico, Rodríguez de Quesada, the pre-defined set of questions was strictly followed. The witnesses interrogated by the Spanish officers provided in every case (or, more probably, were quoted stating) very concrete calculations in *pesos de oro* of the tributes supposedly paid to Moctezuma and local rulers prior to the arrival of the Spaniards. The interviews were published by Scholes / Adams (1957) 25–234. We can see a similar approach in the answers to the *cédula* that were written by friars Nicolás de Witte (Augustinian), Toribio de Motolinía, Diego de Olarte (Franciscans), and Domingo de la Anunciación (Dominican) in August and September 1554, shortly after the arrival of the royal instructions to Mexico. The letters were published in the well known documentary collection of Cuevas (1914) 221–232, 235–242.

Zorita was not very explicit about the reasons motivating the particular structure of his account, e.g. why he first dealt with »the ninth« chapter of the questionnaire. In the letter he addressed to the members of the Council of the Indies, meant as an introduction to his *Breve y sumaria relación*, he briefly stated that he had used his own notes and information taken from Franciscan friars (Toribio Motolinía, Francisco de las Navas, and Andrés de Olmos[91]) and »wrote down in my notebooks the material relating to the contents of the royal cedula, ordering all as well as I could.«[92] Speaking vaguely of the necessity for re-ordering the questions of the *cédula*, he simply stated that he would »set down and comment on the articles individually, but not in the order in which they appear in the cedula.« The precise and quantitative answer to the questions about tributes was, therefore, postponed. Instead of uncritically satisfying the will of the jurists on the Council of the Indies, Zorita decided to put the cart before the horse: by first identifying the kind of lords that existed in pre-Hispanic Mexico, and second by explaining the power and jurisdiction they had exercised both before and after the Spanish conquest.

The order Zorita came up with in his *Breve y sumaria relación* and his alteration of the royal instructions of 1553 invite us to reflect on the complex implications of legal translation processes. This Spanish jurist from the early modern period seems to have been aware of most of the cultural, economic, and social elements that have to be taken into account in complex processes of legal translation and of the interdependence of all these components. Consequently, before making this hasty monetary assessment of tributes required by the jurists of the Council of the Indies, Zorita decided to provide them with an accurate report of the basic Nahua concepts, ideas, and values related to honor, authority, family, religious zeal, labor, justice, consolation, purification, etc. He wrote a kind of introduction to Nahua ethics and worldview – rather unusual for a juridical account – using, for example, long passages from the compilation of *Huehuetlahtolli* (»Speeches of the Ancients«) written by the Franciscan friar Andrés de Olmos around 1547.[93]

Zorita also provided detailed descriptions of the conditions under which the average Indian lived and worked: not possessing anything but »a very sorry mantle with which he covers himself, a sleeping mat, a stone to grind maize for his daily bread, and a few chickens« – a »fortune« valued at under 10 pesos.[94] From his perspective, fair and stable[95] tribute assessments would only be possible if the judges in charge of elaborating them visited Indian towns and villages on a regular basis and interacted with the natives in order to accurately assess the specific living conditions of potential tax payers and the resources produced in the regions were the assessments would apply. Instead of paying attention to these essential elements, the judge-legislators of the Audience of Mexico appear to have been somewhat lazy and indifferent in their approach, using outdated and distorted accounts as well as appealing to »subtleties and speculative

91 On the way in which Zorita used previous accounts and research about the Indian government and customs written by some of the Franciscan friars that were part of the first evangelical expeditions in Mexico, see Ahrndt / Zorita (2001) 44–55; Frost (1991) 169–178.

92 Keen / Zorita (1963) 87.

93 *Huehuetlahtolli* were pedagogical, consolatory, and solemn discourses pronounced by native noblemen on special occasions: visits of noblemen to lords, elections or successions of new rulers, etc. This literary genre also included the advice given by fathers and mothers to children once having reached maturity and served as a preparation for political and working life. Olmos' compilation was not published until 1600, when another Franciscar friar, Juan Bautista, prepared a printed version in Mexico. Olmos / Bautista (1600). On the literary genre of *huehuetlahtolli*, see the contemporary critical edition of the compilation of De Olmos, León-Portilla / Olmos (1988) and other books and articles, León-Portilla (2004), Christensen (2014).

94 Keen / Zorita (1963) 241.

95 Criticism of the economic instability caused by hasty and unrealistic assessments arose from other responses to the *cédula* of 1553. For example, the Augustinian friar Nicolás de Witte pointed out that until the 1550s no assessment remained in force for more than four years, Cuevas (1914) 226.

reasons.«[96] Challenging the work habits of his colleagues, Zorita pointed to the fact that the diversity between the Old and New World was so great that even such an apparently unimportant issue as how one dressed had to be taken into account in tax assessments. This was, indeed, one of the elements that legislators have to consider if they wanted to reduce the mortality caused by forcing more or less naked men to work in the rain and the low temperatures of daybreak and late afternoon.[97]

Inapplicability of Royal Legislation for the Indies as a Result of a General »Misunderstanding«

Further reading of the *Breve y sumaria relación* makes it clear that Zorita used the *cédula* of 1553 as a pretext to speak about a set of political and social matters that, according to him, had to be taken into account every time a tax assessment was made in the Indies.[98] Indeed, Zorita considered the general lack of social and cultural knowledge about American peoples to be the single most important cause (more important even than the greed and lack of commiseration of some settlers and royal officers) of the failure of legal reforms implemented by the Spanish Crown since the beginning of the 16th century in order to translate to the New World the legal framework of Castilian *encomiendas*.[99]

Ignoring, for example, the resources that were produced in every American region and overestimating the working capacities of a decimated and miserable population, the Spanish Crown and their officers were for many decades insistent on making the Indians pay tribute in ways and amounts that were unintelligible or impossible for them to afford. As a result of the brutal homogenizing legislative trends already mentioned, natives had paid and continued to pay a monetary tribute – a petition that was itself, according to Zorita, an »injury« to contributors not familiar with currency and reduced to utter despair in the crazy attempt to obtain *reales* so they could pay.[100]

As an example of what could even be considered an act of conscious resistance against the logic of homogenization that inspired royal legislation on tributes and the *cédula* he allegedly responded to, it is important to mention that Zorita was extremely brief, ambiguous, and evasive when, close to the end of his *Breve relación*, he decided to answer the question about the amount of taxes in the pre-Hispanic era – the issue the jurists of the Council of the Indies were most interested in. Zorita made vague reference to tributes always paid in raw materials commonly found in the regions were they were demanded, recommended the re-instauration of such a »harmonic« and »well-apportioned« fiscal criterion, and explicitly refused to calculate the value of local tributes in Spanish *pesos de oro*. His convictions on the matter make it clear that he considered such an operation to be an illegitimate close translation of a Castilian-shaped fiscal criteria. In fact, he thought that it was both impossible and unfair to make a monetary or value estimation of the raw materials that

96 Even if reflecting on the specific issue of tribute assessment, Zorita lucidly applied such philosophical concepts as »experience« and »speculative reason« in his *Relación de la Nueva España*. His criticism of legislative work made lacking any kind of experience with the land and people to whom the laws and the assessments were addressed appears as a pre-Baconian commitment with experience. To refute this speculative contention, Zorita appealed to Aristotle's authority. Ahrndt / Zorita (2001) 279: »(…) porque cada uno de los oydores que va de nuevo quiere dar nueva orden y piensa sin tener mas expiriençia ni çertidumbre que las rrelaçiones que le an dado algunos interesados que sus anteçesores estaban engañados y que El solo açierta y que le estaba aguardando el rremedio comun y suele ser destruiçion general (…) y como dize el philosopho en el libro primero de las ethicas para que se vea [258r] si algun negoçio conviene hazerse o no se a de proceder por expiriençia y congecturas de los que ven el provecho o daño y los ynconvinientes que en ello ay o se podrían rrecresçer y no por sutilezas y rrazones especulativas.«

97 Keen / Zorita (1963) 204.

98 As noted by Lira (2006) 369.

99 On this legal framework, see Ayala Martínez (2007) 613–696; Fernández Izquierdo (1992) 187–205, Solano Ruiz (1978).

100 Keen / Zorita (1963) 241: »To ask the Indians for tribute in reales is also a great injury to them. Unless an Indian lives in a town not far from a Spanish town, or on a main traveled road, or raises cacao or cotton, or makes cotton cloth, or raises fruit, he does not receive money.« Contemporary scholars are less critical than Zorita with regard to monetary tribute and contend that Nahuas willingly took money. See Lockhart (1992) 180.

Indians could easily find and stock up on prior to the conquest.[101]

Zorita's statements against quantitative assessments are only a small part of his critical evaluation of the fiscal system implemented in the Indies. Not only gold and money were among the senseless petitions of Spanish authorities and *encomenderos*, but also wheat and other kinds of grain that Spaniards preferred to native maize. Zorita considered these kinds of petitions impractical and contrary to the customs of the contributors. He even referred to them as excessive and almost tyrannical »burdens,« which, from a legal point of view, were real »injuries« or »grievances« (»agravios« in Spanish) caused to Indians by negligent legislators.[102]

While avoiding talk of systematic oppression, Zorita nevertheless considered the fiscal policies implemented by colonial authorities in the recent decades to be clearly the result of not only the widespread greed and corruption, but also linked to a problem of misunderstanding. The term »misunderstanding« and expressions such as »it has not been understood« and »need to be understood« occur repeatedly in *Breve y sumaria relación*, where Zorita seems to be fighting, above all, to make the pre-Hispanic legal system comprehensible to his colleagues in Castile. Much like the misunderstandings involving the objects of tribute (gold, money, wheat, and Castilian grains), Zorita was convinced that the Spanish jurists trying to translate certain Castilian laws and institutional frameworks to the Indies were, above all, misinformed and disoriented.

Numerous misunderstandings had occurred, for example, within the framework of personal services that Spaniards required from the Indians by appealing to their existence as customary practices in the pre-Hispanic era. Scholars dealing with native American social structures and economic institutions prior to the conquest had shown that under the rule of native lords, commoners were obliged to work in maize fields, supply the houses of their lord with water, food, and wood, as well as work on the building projects.[103] Spanish *encomenderos* and authorities directly profited from the ancient customs by appropriating them to make the Indians work long, exhausting days, as well as to carry heavy merchandises and equipment on long and dangerous journeys that brought them far away from their homes. Such workdays for the Indians were usually accompanied by undernourishment and having to sleep in open fields; such conditions were primarily responsible for the high mortality among Nahua population, especially during the early years of Spanish domination, when thousands of Indians died while working on the building projects undertaken in the ancient Tenochtitlan, working in mines,[104] or traveling to extremely hot regions like Tehuantepec, where Cortés had intended to launch an expedition for the further discovery and conquest of still unknown territories across the Pacific Ocean.[105]

Zorita reflected on this problem responding to chapter 10 of the *cédula*-questionnaire of 1553. He did not consider personal service itself to be the cause of the annihilation of the Indians, but rather

101 Keen / Zorita (1963) 191: »It is impossible to determine the value of this tribute [paid to lesser lords]. I shall only say that the whole did not come to very much. The most common and general type of tribute was produce. It is, likewise, impossible to answer the question concerning the yearly value of this tribute, primarily due to the difficulty of comparing the value of commodities at that time with their value at present«. Only when it came to the tribute paid to the universal lords was Zorita willing to offer quantification. He probably thought that if he was not able to indicate a number, Crown officials would simply take the higher assessments provided by someone else. He, therefore, estimated that »what each tribute-payer gave came to the value of 3 or 4 reales, at the most – including the domestic service he gave.« Keen / Zorita (1963) 189.

102 Keen / Zorita (1963) 251: »The Indians should not be made to grow wheat, for this causes them great hardship. They do not understand how wheat is grown, and do not have plows. As a result, they have to pay Spaniards to sow and cultivate the wheat fields for them; this is a great burden for the Indians«. Similar considerations regarding the obligation to pay tribute per person instead of paying by villages and towns, a criterion that »has arisen of collecting tribute from cripples, blind and maimed persons,« Keen / Zorita (1963) 227.

103 This was the case in Nahua, Maya, and Central-American regions. See Keen / Zorita (1963) 194–195 and Lockhart (1992) 96. With regards to the institutions of the *mulmeyah* among the Maya, see Solís Robleda (2003) 27, 281–292. For information about personal service in pre-Hispanic Central America, see Sherman (1979) 85.

104 A kind of extenuating personal service that Motolinía considered »plagas mas crueles que la de Egipto« having caused the death of countless numbers of Indian, Dyer / Motolinía (1996) 141–142.

105 Martínez Martínez (2004) 98–99.

the unusual and cruel conditions under which they were forced to pay tribute in the form of labor. Translation (not in the legal sense referred to earlier, but in its primary linguistic meaning) plays here an important role, because Zorita considered abusive personal services to be the result of a translation trap, that is to say, the consequence of a simplistic and intentional identification between the Nahua and Spanish concepts of personal service.[106] The jurist reported that similar intentional misunderstandings and mistakes were made in the translation of other Nahua concepts and in the description of the pre-Hispanic institutions and social order.[107]

Contrary to the erudite writing style of other jurists,[108] Zorita tended to clarify theoretical fallacies, hasty generalizations, and equivalences by appealing to the vast experience he had acquired in his travels in Northern, Southern, and Central America.[109] Together with Las Casas,[110] another experienced polemist, he fought against the proliferation of amphibology[111] in the legal reasoning and argumentation of slave traders and rejected the inappropriate equation, as some early conquerors were quick to do, between the Western concept and practice of slavery and Native American concepts (*naboría*) referring to forms of servitude. Focusing more on Nahua legal vocabulary, Zorita made a similar denunciation of the intentionally false translation of the Nahua concept »huehuetlatlacalli,«[112] unduly equated with the Castilian word *esclavo*. As Zorita explained in his *Relación de la Nueva España*, the legal condition of domestic servants in the pre-Hispanic era was much better than the one attributed to slaves by Castilian law and *ius commune*: Nahua servants had their own assets, they could be sold only in very rare cases, and their labor could be substituted for by relatives or friends. Some of them were even in charge of a household and had children who were born free.[113] Consequently, their condition or status was not comparable to that of Castilian or European slaves.

The cases of personal service, slavery, and kinds of tributes and tributaries are but a few examples[114] of the confusion prevalent among Spanish jurists while legislating with almost complete ignorance and disregard for native customs – a legislative trend that disrupted indigenous communities to the point of placing them into a state of extreme vulnerability. According to Zorita, the destruction of native traditions and subsequent misunderstandings of the fanciful and changing conditions of domination imposed by *encomenderos* and royal officers led Indians to be vicious and to constantly litigate between them. Principals

106 Keen / Zorita (1963) 202: »I shall therefore describe the work they did before the coming of the Spaniards, and how they performed this work. Then I shall tell how they have worked since giving allegiance to Your Majesty, that the cause of the great and continuing destruction of these people may be understood. I shall show that there is no comparison between the tribute labor they perform today and the work they did in their commonwealths.«

107 Trying to avoid a conflict with his colleagues in the Audience of Mexico and in the Council of the Indies, Zorita continued to talk about misunderstandings. Ahrndt / Zorita (2001) 245: »Por no se aver entendido esto bien hazen acudir a las obras publicas los mercaderes y sus cabeças an insistido en que no son obligados a ello y mandoles un gobernador que cumpliesen lo que se les mandava y si no que serian castigados por ello todos«.

108 The case of Solórzano is, perhaps, the most representative of a juridical writing style full of quotes and arguments of authority.

109 Keen / Zorita (1963) 204–205: »What I have said concerning their ancient mode of laboring on public works applies to the Indies in general, for I saw it in operation with my own eyes in all the regions through which I have traveled.«

110 Las Casas (1956) L. III C. 34, 129.

111 Giménez Fernández (1960) 472–481.

112 Following Motolinía, he translated this concept as ancient servitude or blame, Ahrndt / Zorita (2001) 198.

113 Ahrndt / Zorita (2001) 195.

114 We took into account only issues directly related to tax assessments and compulsion to work. Zorita referred to many other legal misunderstandings. Following the *Memoriales* of Toribio Motolinía (1971, written in the 1540s) and the *Speculum Coniugiorum* of Alonso de la Veracruz (1557), he also provided detailed information about pre-Hispanic customs and institutions, such as marriage. Ahrndt / Zorita (2001) 200: »Por no aver entendido los rritos y çirimonias que los naturales de anauac tenian En se casar y por no saber la diferencia que hazian entre mançebas y mugeres legitimas ni entre que personas era liçito casarse o no uvo a los principios muchas y diversas opiniones unos dezian que entre aquellas gentes avia matrimonio y otros que no lo avia y la experiencia ha mostrado por [221v] sus rritos, costumbres, y çirimonias que Entre ellos avia legitimo y verdadero matrimonio como se entendera por lo que aqui se dixere.«

interviewed by the jurist showed an increasing desperation vis-à-vis a judicial system that encouraged bad habits,[115] social disorder, and ruined them via expensive legal procedures that they did not even understand.[116] The Indian opinions that Zorita reported are extremely representative of the mutual lack of understanding prevailing in the processes of legal translation between Castile and America that occurred without paying attention to precedent laws and customs:

> Once I asked an Indian principal of Mexico City why the Indians now were so prone to litigation and evil ways, and he said to me: ›Because you don't understand us, and we don't understand you and don't know what you want. You have deprived us of our good order and system of government; that is why there is such great confusion and disorder. The Indians have thrown themselves into litigation because you egged them on to it, and they follow your lead.‹[117]

This seems, perhaps, somewhat paradoxical considering Zorita was himself a judge and worked for 10 years in one of the most important Spanish courts of the New World. However, his evaluation of the changes that the creation of the Audience of Mexico, the elaboration of many laws supposedly designed to protect the natives, and the translation of the municipal structure of governance that was characteristic in Castile (were *corregidores*, *alcaldes mayores*, *alguaciles*, and other figures had different judiciary and administrative functions)[118] brought to the daily life of the Indians was very critical. For Zorita, even if carried out according to fair and pious motivations, these legal changes had only contributed to the growth of a litigation culture unknown in the pre-Hispanic era[119] and multiplied the number of agents that considered themselves authorized to »steal« from the poor commoners. However, despite their considerable number, they were unable to provide the land even a little of the peace, harmony, and love that had prevailed under the simple politic and juridical structures presided over by native lords.[120] Zorita evaluated every one of the legal innovations mentioned above not against the Castilian criteria, which seemingly blinded his colleagues, but according to the specific needs of the Indies and their natives.[121] His pessimism regarding the legal and political innovations introduced or tolerated by the Spaniards in Mexico reached such a point that he considered the eradication of the legal confusion and disorder derived from them to be basically impossible, even if a return to an idealized *status quo* of the pre-Hispanic system of rule, tribute, and land ownership became the normative goal to which further legal changes should aspire.

In the Andean regions, we find a similar perspective in the writings of Polo de Ondegardo. For Polo, royal officers had destroyed a well-ordered and accepted legal system; they introduced countless laws and provisions into the former Inca Empire that were not in accordance with the customs and characteristics of the land as well as

115 Such as the rebellious character of the *macehuales* or Indian commoners, who were allowed to denounce native lords before the Audience of Mexico.

116 On the ruin of the Nahua *caciques* as a consequence of the tribute reforms implemented by the Spanish Crown since the 1560s, see Hoekstra (1990) 76–79. Hoekstra see the reforms as a result of a pre-defined plan of centralization directed against *caciques* and *encomenderos*, the major local powers which could represent a threat to royal authority in 16th century Mexico.

117 Keen / Zorita (1963) 125.

118 On these figures and functions, see Nader (1990) 17–45.

119 Keen / Zorita (1963) 118, 126: »Had these people not been allowed to engage in their senseless lawsuits, they would not have ruined each other, the deaths of many would have been avoided, and they would not find themselves in their present sorry state.«

120 Keen / Zorita (1963) 121: »The natural lords cherish and support their vassals, for they love them as their own, as their inheritance from their forebears. The fear to lose them and strive not to offend them lest they rise up against them, as have others against their lords.« The idealization of a past with justice but without complex juridical institutions, and the nostalgia for a medieval society in which feudal noblemen exercised jurisdiction while taking care of their vassals as if they were their own children was a very widespread attitude in the early modern period, even among jurists, Egio (2016).

121 Keen / Zorita (1963) 217: »It seems to me that the saying of a certain philosopher well applies to this case: Where there is a plenty of doctors and medicines, there is a plenty of ill health. Just so, where there are many laws and judges, there is much injustice. *We have a multitude of laws, judges*, viceroys, governors, presidents, oidores, corregidores, alcaldes mayores, a million lieutenants, and yet another million alguaciles. But this multitude is not what the Indians need, nor will it relieve their misery.«

arising from alien environments and worldviews that would take natives »more than one hundred years to understand.«[122]

Zorita's Appeal to Focus on the Pre-Hispanic Legal Customs and Sources. A Pioneering Awareness of the Need and Challenges of Intercultural Legal Communication

If we come back again to the *cédula* of 1553, we notice that the jurists of the Council of the Indies also carefully identified the kind of sources that had to be taken into account by Spanish authorities in regions like Mexico when compiling the fiscal report demanded: ancient pictographic codices[123] and a very restricted kind of witness – namely, old native noblemen under oath. The linguistic abilities of friars living in Indian communities and native translators were also very much appreciated given the nature of Nahua legal sources: competent interpreters were required to make the codices ›talk‹ and interview the native noblemen who knew best the content of pictures, which, in most cases, had been kept for centuries as part of the family heritage.

A two-stage process of translation-interpretation, conducted under the direction of the judges of the Audience and made possible thanks to the help of Franciscan and Dominican friars as well as other qualified interpreters, was, therefore, necessary to make the sources previously mentioned ›speak.‹ The first stage involved having the native elders explain the pictographic representations of the village hierarchy and clarify the images and symbols concerning the kind of goods that the lords expected as tributes, the quantity, and intervals in which the Indians paid these tributes prior to the Spanish conquest, etc. The second, almost simultaneous, stage involved interpreters translating the verbally transmitted codices and statements by native elders into Castilian.

The way in which the instructions of the *cédula* of 1553 were put into practice one year later by the viceroy, Luis de Velasco, and the judge of the Audience of Mexico, Antonio Rodríguez de Quesada,[124] makes it clear that the native aristocracy, to which the elder Indians witnesses belonged, was unable to speak Castilian three decades after the conquest. Even if some of them had a basic knowledge of this foreign language, it was probably insufficient to provide a detailed account concerning such a specific, and, at the same time, such a general matter as the tributary system prior to the conquest. On the one hand, very specific vocabulary about the types of lords, tributes, as well as land ownership and use were required for this translation exercise. On the other, an entire social and economic order had to be represented or translated into Castilian. With the help of interpreters, Velasco and Rodríguez de Quesada interviewed six native noblemen from Tlatelolco and asked them to explain in detail an ancient pictographic codex containing information about the tributaries of Moctezuma. Despite the linguistic difficulties already described above, the inquiry concluded with a surprising level of consistency among those interviewed. It is difficult to explain how the six witnesses examined by the viceroy and the *oidor* agreed on every single detail of their statements.[125] More likely, however, is that the Spanish officers did their part to obtain this unanimous result. Just as the jurists of the Council of the Indies wanted, Velasco and Rodríguez de Quesada made their principals give very detailed translations of the value of the tributes supposedly paid to Moctezuma until 1521 in *pesos de oro*. They did not forget, however, to quadruple their value, drawing attention to the fact that the prices of the products given as tribute had increased since the 1520s. Thus, within these parameters, they were able to calculate an exact value for the sum of the tributes paid to Moctezuma: 1.962.450 *pesos de oro*.

122 Polo de Ondegardo (1872) 7: »(…) porque de otra manera y por la orden que se trata e a tratado, no hay duda sino que a muchos se les quita el derecho adquirido, obligándolos a pasar por unas leyes que ni supieron ny entendieron ny bernan en conosçimiento dellas de aqui á çien años«.

123 »Hareys traer ante vos qualesquier pinturas o tablas o otra quenta, que aya de aquel tiempo por do se pueda averiguarlo que esta dicho,« De Puga (1563) f. 140v.

124 A series of interviews published in Scholes/Adams (1957) 25–234.

125 Contrary to what Lira considers to be the logical and truthful conclusion of a meticulous process. Lira (2006) 372.

As I mentioned before, Zorita's more systematic and complex explanation refused to conform to the monetary logic embodied in the approach of the jurists of the Council. Without confronting them directly, he advocated a deeper and more frequent consultation of pictographic codices and native noblemen when assessing the tributes. Furthermore, he insisted on the fact that the examination of the pre-Hispanic legal sources was not only necessary to provide figures to be used by tax collectors, but also to render justice to the natives regarding a number of other issues.

In Zorita's opinion, a serious and systematic effort to compile and interpret the pictographic codices of the Indians was the only way to arrive at a correct understanding of the political and economic system that had prevailed for centuries amongst the Nahuas. When it came to the division and the conditions of use regarding the lands conquered by the Spaniards, this interpretation was deemed necessary, especially given that the *encomenderos* and other usurpers had profited from the disorder caused by the hasty legal innovations implemented in order to destroy the harmonic system of *calpulli*.[126]

According to Zorita, the conquerors were not responsible for the core problems and calamities endured by the Indians, but rather the immoral advisors and pettifoggers who, by inciting the Indian commoners to revolt against their natural lords, hoped to take advantage of chaos and confusion, thereby profiting from the costs of the proceedings before the Audience. Giving credence to litigants instead of requesting the submission of codices reflecting the former and legitimate division of the land and the assessments of tributes was at the core of the progressive destruction of the pre-Hispanic social structures. This kind of revolutionary dynamic implied for Zorita not only a transfer of property from one hand to another, but also a dangerous upheaval of the social, economic, and moral order prevailing among Nahua people for centuries. Bilingual Spaniards, *mestizos*, and *mulattos* troublemakers,[127] having the support of the judges of the Audience or profiting from their useful ignorance and laziness, were identified as the main culprits in the destruction of former customs. This kind of legal and institutionally framed vandalism represented a great danger, especially when taking into account that the subversion of the previous state of affairs was being carried out neither having a solid substitute nor the slightest guarantee that the Castilian-shaped innovations would even take root in such an alien land. In this context, the understanding of ancient Nahua order and customs, made possible by the rescue, use, and interpretation of native legal sources, seemed to be the only way to stop such a destructive dynamic. Zorita, who had himself seen many codices and listened to a number of elder and prominent Indians while interpreting them, related to his colleagues in Spain in great detail the valuable information that could be found in these sources:

> This principal [the calpullec or chinancallec, head or elder of a certain calpulli] is responsible for guarding and defending the calpulli lands. He has pictures on which are shown all the parcels, and the boundaries, and where and with whose fields the lots meet, and who cultivates what field, and what land each one has. The paintings also show which lands are vacant, and which have been given to Spaniards, and by and to whom and when they were given. The Indians continually alter these pictures according to the changes worked by time, and they understand perfectly what these pictures show (…). One must understand the concord and unity that once prevailed in these calpulli if one

126 A group of individuals belonging to the same familiar branch and communally owning a land, see Gram (2013) 153–154. This native institution played an important role, being the most basic unit of land division, tribute, and jurisdiction among the Nahuas. On the *calpulli* or *calpolli* as a »microcosm« of the organization of the Nahua world, see Lockhart (1992) 16–20.

127 Keen-Zorita (1963) 117. I find this perspective regarding bilingualism very interesting. Taking into account that bilingual individuals had usually been considered bridges and conciliators between different cultures and peoples, Zorita's statements make clear that for the agents of his time, bilingualism was not in most cases a tool or competence used for the benefit of Indian peoples but rather the opposite. A very different perspective on native and *mestizo* interpreters as important supporters of the native population in their fight against the appropriation of their lands can be found in Valdeón (2014) 84–86.

> would treat them justly and put an end to the confusion that now prevails in almost all of them.[128]

Zorita's exhortation begging the members of the American Audiences and of the Council of the Indies to pay attention to and respect the pre-Hispanic legal customs and sources (just as it was the case in the numerous republics incorporated to the Spanish monarchy during the 16th century) is innovative with respect to the awareness of the specific needs and challenges faced by well-intentioned and cautious jurists getting involved in complex processes of intercultural legal communication. The care Zorita took to synthesize previous enquiries into the institutions, such as the *calpulli*, and to improve the results of earlier writings on these topics has led contemporary researchers working on land tenure and political ideas in pre-Hispanic Mexico to still use the *Breve y sumaria relación* »as a point of departure«[129] for their own work.

Nevertheless, as Zorita denounced in his *Relaciones*, the consultation of native sources regarding the division and property of the *calpulli* was not the rule, but more the exception. According to his experience in the *Audiencia* of Mexico, Zorita stated that the complaints of Indian noblemen, founded on the contents of the codices, were usually ignored, while their former vassals, guided by scheming »Spanish and mestizo allies, commenced suits against the lords, charging them with misgovernment, and were able to prove [in the *Audiencia*] whatever served their ends.«[130] Running counter to the judicial criterion followed by most of his colleagues in the Audiencia de Mexico, Zorita also considered this kind of neglectful attitude towards the sources and witnesses as another of the »injuries« inflicted by judges on the Indians. In this case, the injury was even worst because the *calpulle* was not only an individual, but an important legal figure acting on behalf of the other members of the *calpulli*,[131] a collective severely affected by judges lacking of knowledge and good will.

With regard to the history of legal translation, Zorita is not unique in his role as a kind of spokesman and procurator for Nahua noblemen before the Spanish Crown. From this period, we encounter a great number of expressions of solidarity with deposed and frightened Indian principals, especially coming from the friars in charge of evangelizing the native population and who constantly advocated the Indians' interests (on their behalf) before the secular authorities.[132] What I find particularly interesting is the way in which his practical experience as a judge, his political visions, and his concerns as a scholar come together in his writings, thereby led Zorita to attach great importance to translation and interpretation in legislative processes. Being aware of the practical problems that plagued the Nahua – which he witnessed on his travels throughout the region and in the course of his duties during his active career – toward the end of his life, he develop an erudite, but always practically oriented passion for Mexican traditions and antiquities. Enjoying his retirement, knowing more about the customs and worldview of the people he had governed as *oidor*, and influenced by the remarkable writings of the so-called friar-ethnographers[133] Andrés de Olmos, Francisco de Las Navas, and Toribio Motolinía, Zorita be-

128 Keen / Zorita (1963) 110.

129 Hoekstra (1990) 73. Hildeberto Martínez, one of the most prominent experts on Nahua ethno-history and on the *calpulli*, also considers the definition provided by Zorita in his *Relaciones* as »the widest, the most accomplished and also, perhaps, the most specific definition of *calpulli*«, Martínez (2001) 28.

130 Keen / Zorita (1963) 120. Analyzing what he calls the »erratic and rather uncertain policy« put into practice by the Spanish Crown and its officers in New Spain during the second half of 16th century, Hoekstra considers that, apart from a few remarkable exceptions, the members of the Audience of Mexico »were highly confused,« Hoekstra (1990) 77.

131 Keen / Zorita (1963) 111.

132 For example, friar Nicolás de Witte made an urgent plea to restore the »liberties« of the natural lords in his response to the *cédula* of 1553. Speaking about the regions in which he had been as missioner, he provided a poignant anecdote about a former universal lord forced to work his land »como el más pobre macehual del pueblo« – a situation that brought De Witte to tears and left him speechless, Cuevas (1914) 223. Bartolomé de Las Casas is, perhaps, the most well-known clergyman connected with a tireless campaign in defense of native liberties, both noble and popular ones. For a recent account on the fight that Las Casas undertook not only as the author of books, debater, and royal adviser, but also as a key witness in judicial processes resulting in the freedom of Indians unduly slaved, see Van Deusen (2015).

133 Even if anachronistic, the term ethnographer is used by scholars such as Baudot and León-Portilla (2000) 4, when referring to Andrés de Olmos, Toribio Motolinía, Bernardino de Sahagún, and other 16th century friars.

came an ardent proponent of the idea that the solution for the governance of the Indies was tied to the adequate interpretation of the pictographic legal sources of the Nahuas and other American peoples.

If we believe the retrospective and, perhaps, too complacent view he gave above regarding his commitments as *oidor*, he would have himself undertaken such a restoration much earlier, making always tax assessments taking into account indigenous paintings. While in Guatemala, Zorita stated that he had the opportunity to see a codex that recorded more than 800 years of native history and to extract information from it with the help of ancient indigenous interpreters and of a Dominican friar,[134] probably friar Tomás Casillas, who translated the interpretations of the natives.[135]

Reporting to the Council of the Indies, the later *visitas* and inquiries he conducted as *oidor* of the Audience of Mexico, Zorita provided a precise description of the double process of interpretation and translation of native sources mentioned above as well as contrasted his approach with that of previous Franciscan reports. In his own words, he states that he would have made use of the manuscripts composed by De Olmos, De Las Navas, and Motolinía already in the 1550s – a claim that implies the existence of some kind of established cooperation between the friars and Zorita in the matter of tax assessments for Indian towns and villages:

> They [the friars] always took particular care to inform themselves of the habits and customs of these people and they could do this better than is now possible, for they knew aged Indians who could help them, and the picture writings were still sound and whole. They obtained much accurate information from these pictures, for they were aided by aged Indian principals who knew how to interpret them and who had seen their elders do the same. I took from each friar what he had learned and wrote down in my notebooks the material relating to the contents of the royal cedula, ordering all as well as I could. Moreover, I checked the accuracy of all my notes with aged Indians. In this I was aided by some aged friars, members of the tree orders active in New Spain, who here very good interpreters.[136]

The passage quoted above shows the importance Zorita attributed to the methodological and linguistic issues, not to mention his recognition of the growing difficulties raised in the research of the pre-Hispanic legal order via the destruction of sources and death of competent interpreters of pictographic codices. Along with the Indian nobility, little by little the Indian world itself was dying and vanishing. This critical methodological awareness is at the core of what I consider the pessimistic point of view deeply ingrained in Zorita's writings. Even if he was a moderate person inclined to self-censorship, his most bitter paragraphs speak of the undoubtedly intentional and almost irreversible destruction of native sources and legal order, whose knowledge was of »little interest« to the Spanish settlers and authorities.

It is also interesting that, being more familiar with traditional sources than other members of the Audience and without sharing the pre-established goal of submitting a calculation of tributes in the clear and summary fashion stipulated by the Council of the Indies, Zorita was more realistic than Velasco and Rodríguez de Quesada in his evaluation of the difficulties that arose from the consultation of sources of a pictographic nature. Given that a process of interpretation of the pictures was always needed, figures and calculations based on them could vary from one interpreter to another. Therefore, to obtain such a surprising unanimity among witnesses, as Velasco and Rodríguez de Quesada were able to do, must have been a very difficult task. One would also have expected a great degree of divergence between the Indian accounts given that most of the ancient and erudite noblemen had died not to mention that no systematic

134 Keen / Zorita (1963) 272.

135 Tomás Casillas was himself by no means a minor figure. While acting as sub-prior at the convent of San Esteban Salamanca in the 1540s, he is considered one of the most prominent disciples of Francisco de Vitoria and the person who applied his doctrines to Guatemala and Chiapas, where he was bishop from 1550 to 1567. See Rodríguez (1971) 228; Fernández Rodríguez (1994) 294.

136 Keen / Zorita (1963) 87.

effort to collect or to copy the Indian pictures had been undertaken, thus allowing *encomenderos* and other concerned agents to proceed with the process of destruction of indigenous legal patrimony.[137]

Zorita also had some difficulties when he tried to describe the major social institutions, social divisions, as well as practices of cultivation and distribution of the land amongst the Nahuas. Given that the American and Spanish social structures and customs were very different, the jurist felt compelled to make regular use of concepts and terms taken from Nahuatl. Zorita often tried to overcome the difficulties implied by a process of communication in which he was, on the one hand, obliged to render Nahua realities understandable to Spanish jurists working in Castile and lacking any first-hand experience of the people or land, and, on the other, committed to offering a description of these realities in which their singularity would be properly reflected and respected. In line with these motivations, Zorita avoided the regular assimilation and replacement of native traditions and concepts with Spanish-European ones; a practice that we all too often find in chronicles and juridical accounts. Only on one occasion[138] do we find a direct assimilation of Nahua and Spanish fiscal practices in the two *Relaciones*. In other cases, once the dynamic of the translation process and explanation of Nahua customs and practices by means of comparing them with better-known occidental cases and examples is broken, Zorita seems unable to describe the new and distant realities in Castilian terms. Nahuatl words appear then as the only way to name and talk about local and specific realities. In these cases, Zorita drew extensively from the *Relación* written by the Franciscan friar Francisco de Las Navas, an extraordinary study of Nahua institutions and customs, such as the *calpolli* (also called *chinancalli*), the *tlatocamilli* (also called *tlatocatlalli*), or the *teccalli*. It seems that Zorita improved the *Relación* that Las Navas had written in the 1550s, now missing, by providing a wide list of Nahua types of lords (*tlatoani, teuchtli, pilli, calpullec*, …) and contributors (*tlamaitl, maye, macehualli*, …).

Zorita's respect for native concepts and realities is to be linked with his general syste,project of the restoration of Nahua legal customs. Another linguistic difficulty the jurist tried to overcome, while pleading in favor of this legal and political approach, arose from the fact that the Nahua was but one of the peoples that inhabited the territory under the jurisdiction of the Audience of Mexico and Nahuatl, thus represented only one of the languages spoken in this vast territory in the 16th century. Zorita informed the members of the Council of the Indies about the extreme diversity of languages and customs that distinguished the American continent from the relatively uniform European context in the dedicatory letter of his *Breve y sumaria relación*.[139] Even if in these opening remarks Zorita actually thought that the diversity of the Indies made it impossible »to state a general rule as concerns any part of Indian government

137 Keen / Zorita (1963) 86: »Nor should we wonder that some divergences appear in the Indian accounts. To begin with, in the majority of cases the versions of the interpreters are faulty. In the second place, the Indians lacked and alphabet and writing and preserved all their past history in the form of pictures, most of which have been lost or damaged. Add to this that the memory of men is frail, and that most of the aged Indians who were knowledgeable about these matters are dead. These are the reasons why there are different accounts about everything. Yet another reason is the small value that men attach to the study of Indian antiquity, which they regard as something from which little or no profit can be derived.«

138 Trying to explain the way in which tributes were paid to universal lords by provinces and towns in the pre-Hispanic era, Zorita stated that tribute »was never apportioned by head,« but as a collective obligation assumed by the whole population of a certain tow, »like the *encabezamiento* that is made in Castile,« Keen / Zorita (1963) 187. The reference to the *encabezamiento* is, here, polemic, and it has to be considered in relation to the uneasiness with which Zorita perceived the imposition of tributes per head – a disruptive practice supported by royal jurists, but which disbanded the union and harmony prevailing among indigenous collectivities prior to the conquest.

139 Keen / Zorita (1963) 86: »I must say at the outset, however, that it is impossible to state a general rule as concerns any part of Indian government and customs, for there are great differences in almost every province. Indeed, two or three different languages are spoken in many towns, and there is almost no contact or acquaintance between the groups speaking these different languages. I have heard this is general in the Indies, and from what I have seen in my travels, I can affirm it to be true. Consequently, if what I say here appears to contradict some other information, the cause must be the diversity that exists in all things in every province and not any lack of diligence on my part in seeking the truth.«

and customs,« he did not follow his own methodological warning in the body of his account. Probably willing to provide a *remedio* suitable, as the lascasian ones, to the whole continent, he was inclined to consider the kind of social division and land ownership prevailing among the Nahuas as a legal framework applying for all the American regions he had visited during his active career.[140] Consequently, while fighting against Castilian homogenization, in his *Relaciones*, he also tended to generalize from the Nahua customs and way of life to those of the other American peoples inhabiting distant regions of what is now Mexico, Guatemala, and Colombia.

Conclusion

Although the difficulties addressed in this contribution (difficulties of interpretation arising from the pictorial character of Nahua legal sources; untranslatable concepts and realities existing in the pre-Hispanic era; diversity of languages and customs prevailing in the Indies), for Zorita, the consultation and reference to native sources was considered absolutely vital, especially in light of the successive failures in the implementation of different legal frameworks translated from Castile. Following a pragmatic line of thought, the jurist felt that the best system of tributes for the American territories now belonging to the Spanish Monarchy would be one in line with the legal customs of the natives.

Behind these criteria we find, again, an epistemological awareness. As I mentioned earlier, Zorita attributed the uneasiness of royal officers and jurists when it came to native legal traditions as stemming from their lack of understanding. Their obstinacy in forcing American realities to adapt and apply the juridical patterns they had learned in Salamanca or Alcalá (and were in use in Castile) was compounded by a parallel confusion and lack of understanding among American natives. In other words, in order to impose a comfortable homogeneity between Castile and America, which would simplify their own work, jurists in favor of centralization and standardization were, indeed, spreading confusion and discord overseas. For Zorita, the general dynamic of the legislative process has to be the other way round: the most important thing was that the tributaries understood the tax assessments and payment intervals. From this point of view, sensible in both social and pragmatic terms, a return to the pre-Hispanic legal customs would dispel the misunderstandings that frightened the Indians and that would better serve the Spanish Crown, since there would finally be clear criteria regarding tributes. According to Zorita, the intellectual effort needed in this process of harmonization has to come, undoubtedly, from the social group that demanded payments and services, not from the peoples subject to them.

To this end, Zorita planned to have native communities participate in the assessments of tributes, together with *oidores*, *encomenderos*, and officials of the royal treasury (in the case of Crown towns). Emphasizing the importance of making the fiscal obligations clear to the natives, e.g. in order to avoid defaults, delays, and abuses committed by greedy *encomenderos* and officers, Zorita went even further in his *Relación de la Nueva España* and proposed that the payment obligations should be elaborated according to the pictographic tradition of Nahuas and other American peoples. By providing every Indian household with such an explanation, comprehending the tax assessments would be just that much easier. Payments and collection of taxes would also become simple. Respect for the native legal customs was here taken to the extreme. Even if used to render more efficient the compulsory levies of a foreign legislator, the practice Zorita was advocating implied the continuation of the Nahua non-scriptural system of representation, and it would have represented a major concession on behalf of generating a mutual understanding. We know, in fact, that under Spanish colonial domination, not only codices but also pictorial documents concerning only

140 Keen / Zorita (1963) 273: »It suffices for me to have given Your Majesty an account of the state of things in New Spain, for all the neighboring regions differed little from it in their rules of succession and modes of government.«

one person or family were taken into account by Audiences and authorities in different regions belonging to what is today Mexico.[141] Zorita attested that previous *visitadores* had given every Indian a sealed paper with a picture reflecting his tributary obligations.[142] The point, then, was not to go on innovating and struggling to find a new redemptory way of tribute assessment, but to systemize successful measures already implemented by other judges and Audiences.

The elements already mentioned are sufficient in order to understand the importance attributed to legal translation and linguistic issues in Zorita's writings as well as in other accounts elaborated by early modern Spanish friars, jurists, and royal counselors – all key intellectual figures in the promotion of an American system of law grounded on the pre-Hispanic customs. Despite being part of a relatively marginal pro-indigenous ›lobby‹, whose approaches were not taken into account by the official homogenizing trend of legislation – including jurists such as Juan de Ovando and Juan de Solórzano y Pereira, who stood out among the authors and promoters of some of the major compilations of *derecho indiano* – these figures, nevertheless, represented a significant and interesting strain of thought. As contemporary scholars, such as James Lockhart, Yanna Yanakakis, Barbara Mundy, and Ethelia Ruiz Medrano, have shown in recent books and articles, their appeal to take into account native pictorial sources in tax assessments, litigation before the courts, and other administrative and juridical processes would have been commonly followed in the daily practices of Spanish-American institutions until the end of the colonial domination. Zorita's *Relaciones* represent, from this perspective, one of the most accomplished theoretical approaches elaborated during this period when it comes to the needs and challenges of intercultural legal communication.

■

Bibliography

- Ahrndt, W., A. de Zorita (2001), Edición crítica de la *Relación de la Nueva España* y de la *Breve y Sumaria Relación* escritas por Alonso de Zorita, Mexico, Bonn
- Alcántara, B. (2010), El canto-baile nahua del siglo XVI: Espacio de evangelización y subversión, in: El ritual en el mundo maya: De lo privado a lo público, ed. by A. Ciudad Ruiz, M. J. IGLESIAS PONCE DE LEÓN, Madrid, 377–393
- Aragón Andrade, O. (2007), Los sistemas jurídicos indígenas frente al Derecho estatal en México. Una defensa del pluralismo jurídico, in: Boletín Mexicano de Derecho Comparado 118, 9–26
- Ayala Martínez, C. de (2007), Las órdenes militares hispánicas en la Edad Media (siglos XII–XIV), Madrid
- Baudot, G. (1977), Utopie et histoire au Mexique. Les premiers chroniqueurs de la civilisation mexicaine (1520–1569), Toulouse
- Baudot, G. (1990), La pugna franciscana por México, México
- Baudot, G. (1997), Los franciscanos etnógrafos, in: Estudios de cultura Náhuatl 27, 275–307
- Baudot, G. (2004), Felipe II frente a las culturas y a los discursos prehispánicos de América. De la transculturación a la erradicación, in: Pervivencia del mundo Azteca en el México virreinal, México, 347–378
- Barlow, R. (1948), El Códice de Tlatelolco, in: Anales de Tlatelolco: Unos annales históricos de la Nación Mexicana y Códice de Tlatelolco, ed. by R. Barlow and H. Berlin, México, 105–128
- Bernal, B., Zorita, A. de (1985), Leyes y ordenanzas reales de las Indias del Mar Océano por las cuales se han de librar todos los pleitos civiles y criminales de aquellas partes […], México
- Bodin (1579), Les six livres de la republique, Lyon
- Borja, J., T. Mascareñas (1993), El V Centenario y la imagen de España en el mundo, in: Anuario Internacional CIDOB, 89–96
- Brendecke, A. (2009), Imperium und Empirie, Funktionen des Wissens in der spanischen Kolonialherrschaft, Köln
- Brendecke, A. (2012), Imperio e información. Funciones del saber en el dominio colonial español, Madrid, Frankfurt

141 A recent overview of different kind of pictorial manuscripts used as evidence before Spanish Courts or showing the merits of a certain people, family, or individual in the collection of papers published by Megged / Wood (2012).

142 Ahrndt / Zorita (2001) 279.

- Burke, P. (2007), Cultures of Translation in Early Modern Europe, in: Cultural translation in Early Modern Europe, ed. by P. Burke and R. Hsia, Cambridge, 7–38
- Christensen, M. (2014), Translated Christianities: Nahuatl and Maya Religious Texts, University Park (Pennsylvania)
- Cuevas, M. (1914), Documentos inéditos del siglo XVI para la Historia de México, México
- Cunill, C. (2011), El indio miserable: nacimiento de la teoría legal en la América colonial del siglo XVI, in: Cuadernos InterCAmbio 8–9, 229–248
- Diego Fernández, R. (2010), La visita al Consejo de Indias de Juan de Ovando y la Nueva España, in: Revista Chilena de Historia del Derecho 22:1, 445–457
- Domínguez Torres, M. (2013), Military Ethos and Visual Culture in Post-Conquest Mexico, Farnham, Burlington
- Duve, T. (2004), La condición jurídica del indio y su condición como persona miserabilis en el Derecho Indiano, in: Un giudice e due leggi: Pluralismo normativo e conflitti agrari in Sud-America, ed. by M. G. Losano, Milano, 3–33
- Duve, T. (2014), European Legal History – Concepts, Methods, Challenges, in: Entanglements in Legal History: Conceptual Approaches, ed. by T. Duve, Frankfurt am Main, 29–66
- Duverger, C. (2013), Hernán Cortés. Más allá de la leyenda, Madrid
- Dyer, N. J., T. Motolinía (1996), Memoriales (Libro de oro, MS JGI 31), México
- Egío, J. L. (2016), Calvinismo, galicanismo y antimaquiavelismo en el pensamiento político de Innocent Gentillet (1532–1588), Murcia
- Elliott, J. H. (1987), Metropolitan aspirations, in: Colonial Spanish America, ed. by L. Bethell, Cambrigde, 287–309
- Elliott, J. H. (1992), Europe of Composite Monarchies, in: Past and Present 137, 48–71
- Escalante Betancourt, Y. (2005), La dimensión política del mitote tepehuano. Flujos del simbolismo de poder en el contacto intercultural, in: IV Coloquio Paul Kirchhoff. Las expresiones del poder: homenaje al Doctor Claudio Esteva Fabregat, ed. by R. Pérez-Taylor, México, 45–52
- Fernández Izquierdo, F. (1992), La orden militar de Calatrava en el siglo XVI. Infraestructura institucional, Madrid
- Fernández Rodríguez, P. (1994), Los dominicos en el contexto de la primera evangelización de México, 1526–1550, Salamanca
- Flint, S. C. (2008), The Martín Cortés Conspiracy Reexamined, in: The Sixteenth Century Journal, 39:1, 23–24
- Flores, A. de, G. Castagna Machado (2015), Tradução cultural: um conceito heurístico alternative em pesquisas de história do direito, in: Historia é Cultura 4, 118–139
- Foljanty, L. (2015), Legal Transfers as Processes of Cultural Translation: On the Consequences of a Metaphor, in: Max Planck Institute for European Legal History Research Paper Series 2015-09
- Frost, E. C. (1991), Fray Andrés de Olmos en la Relación de Alonso de Zorita, in: Revista de Indias, 169–178
- García Izcabalceta, J., A. de Zorita (1941, first ed. 1891), Breve y sumaria relación de los señores de la Nueva España, in: Nueva colección de documentos para la historia de México, ed. by J. García Icazbalceta, México, Vol. III, 65–205
- García Miranda, C. (2015), Los informes de Juan Polo de Ondegardo: producción y recepción crítica, in: Letras 123, 125–139
- García Pérez, R. (2015), Revisiting the America's Colonial Status under the Spanish Monarchy, in: New Horizons in Spanish Colonial Law. Contributions to Transnational Early Modern Legal History, ed. by T. Duve, H. Pihlajamäki, Frankfurt
- Gibson, C. (1964), The Aztecs Under Spanish Rule: A History of the Indians of the Valley of Mexico, 1519–1810, Stanford
- Giménez Fernández, M. (1960), Bartolomé de Las Casas. Vol. II (1517–1523), Madrid
- Gloel, M. (2014), Las monarquías compuestas en la época moderna: concepto y ejemplos, in: Universum 29, 83–97
- González Pujana, L. (1999), Polo de Ondegardo: un cronista vallisoletano en el Perú, Valladolid
- Gram, J. (2013), Government, Pre-Conquest Aztec, in: Conflict in the Early Americas: An Encyclopedia of the Spanish Empire's Aztec, Incan, and Mayan Conquests, ed. by R. M. Seaman, Santa Barbara, 153–154
- Harvey, H. R. (1991), The Oztoticpac Lands Map. A Reexamination, in: Land and Politics in the Valley of Mexico, ed. by H. R. Harvey, Alburquerque, 163–185
- Hill Boone, E. (1998), Pictorial Documents and Visual Thinking in Postconquest mexico, in: Native traditions in the Postconquest World, ed. by E. Hill Boone, T. Cummins, Washington D. C., 149–199
- Hoekstra, R. (1990), A Different Way of Thinking. Contrasting Spanish and Indian Social and Economic Views in Central Mexico (1500–1600), in: The Indian Community of Colonial Mexico. Fifteen Essays on Land Tenure, Corporate Organizations, Ideology and Indian Village Politics, ed. by A. Ouweneel, S. Miller, Amsterdam, 60–86
- Jerome (2012), Letter to Pammachius [De optimo genere interpretandi], in: The Translation Studies Reader, 3rd ed., ed. by L. Venuti, London, New York, 21–30
- Keen, B., A. de Zorita (1963), Life and Labor in Ancient Mexico. The Brief and Summary Relation of the Lords of New Spain, New Brunswick
- Kellogg, S. (1995), Law and the Transformation of Aztec Culture, 1500–1700, Norman
- Kellogg, S., E. Ruiz (eds.) (2010), Negotiation within Domination: Colonial New Spain's Indian Pueblos Confront the Spanish State, Boulder
- Lamana Ferrario, G. (2012), Pensamiento colonial crítico. Textos y actos de Polo Ondegardo, Cusco
- Las Casas, B. de (1956), Historia de las Indias, Caracas
- León-Portilla, M. (2004), Huehuetlahtolli. Antigua palabra. La retórica náhuatl, in: La palabra florida, ed. by H. Beristáin, G. Ramírez, México, 23–41
- León-Portilla, M. (ed.) (2000), Fifteen Poets of the Aztec World, Norman
- León-Portilla, M., A. de Olmos (1988), Huehuetlahtolli: Testimonios de la antigua palabra, México
- Lira, A. (2006), Orden político y equidad tributaria. Alonso de Zorita, una respuesta tardía a la Real Cédula del 20 de diciembre de 1553, in: Anuario Mexicano de Historia del Derecho 18, 363–382
- Lockhart, J. (1992), The Nahuas After the Conquest: A Social and Cultural History of the Indians of Central Mexico, Sixteenth Through Eighteen Centuries, Stanford

- Luque Talaván, M. (2003), Un universo de opiniones. La literatura jurídica indiana, Madrid
- Martínez, H. (2001), Calpulli ¿Otra acepción de *teccalli*?, in: Estructuras y formas agrarias en México. Del pasado y del presente, coord. by A. Escobar Ohmstede, T. Rojas Rabiela, México, 27–43
- Martínez, M. E. (2014), Indigenous Genealogies: Lineage, History, and the Colonial Pact in Central Mexico and Peru, in: Indigenous Intellectuals. Knowledge, Power, and Colonial Culture in Mexico and the Andes, ed. by G. Ramos, Y. Yannakakis, Durham, London, 173–201
- Martínez Martínez, M. C. (2004), Cartas privadas de Hernán Cortés al licenciado Núñez, in: Anales del Museo de América 12, 81–102
- Megged, A., S. Wood (2012), Mesoamerican Memory. Enduring Systems of Remembrance, Norman
- Miranda, J. (2005), El tributo indígena en la Nueva España durante el siglo XVI, México
- Moutin, O. R. (2016), Legislar en la América hispánica en la temprana edad moderna. Procesos y características de la producción de los Decretos del Tercer Concilio Provincial Mexicano (1585), Frankfurt
- Mundy, B. (1996), The Mapping of New Spain. Indigenous Cartography and the Maps of the Relaciones Geográficas, Chicago
- Mundy, B. (2011), Litigating Land, in: Mapping Latin America. A Cartographic Reader, ed. by J. Dym, K. Offen, Chicago
- Mundy, B. (2015), The Death of Aztec Tenochtitlan, the Life of Mexico City, Austin
- Nader, H. (1990), Liberty in Absolutist Spain. The Habsburg Sale of Towns, 1516–1700, Baltimore, London
- Oakley, F. (1983), Legitimation by Consent: The Question of the Medieval Roots, in: Viator 14, 303–335
- O'Gorman, E., T. Motolinía (1971), Memoriales o Libro de las cosas de la Nueva España, México
- O'Gorman, E. (dir.) (1970), Guía de las actas de Cabildo de la ciudad de México. Siglo XVI, México
- Olmos, A. de, J. Bautista (1600), Huehuetlatolli. Pláticas de los viejos, México
- Owensby, B. (2008), Empire of Law and Indian Justice in Colonial Mexico, Stanford
- Owensby, B. (2015), The Theater of Conscience in the »Living Law« of the Indies, in: New Horizons in Spanish Colonial Law. Contributions to Transnational Early Modern Legal History, ed. by T. Duve, H. Pihlajamäki, Frankfurt, 125–149
- Pagden A., J. Lawrance, F. Vitoria (1991), Political Writings of Francisco de Vitoria, Cambridge
- Polo De Ondegardo, J. (1872), Relación de los fundamentos acerca del notable daño que resulta de no guardar á los indios sus fueros, in: Colección de documentos inéditos relativos al descubrimiento, conquista y organización de las antiguas posesiones españolas de América y Oceanía, Tomo XVII, Madrid, 5–177
- Portuondo, M. (2009), Secret Science: Spanish Cosmography and the New World, Chicago
- Poole, S. (2004), Juan de Ovando: Governing the Spanish Empire in the Reign of Philip II, Norman
- Puga, V. de (1563), Provisiones, cedulas, instrucciones, para el gobierno de la Nueva España, México
- Quaglioni, D. (1983), Politica e diritto nel Trecento italiano. Il »De Tyranno« di Bartolo di Sassoferrato (1314–57), Firenze
- Rand Parish, H., H. Raup Wagner (1967), The Life and Writings of Bartolome de las Casas, Alburquerque
- Rodríguez, A. M. (1971), Fray Francisco de Vitoria. Modelo de catedráticos in: Universidad Pontificia Bolivariana 32, 214–235
- Rodríguez Morel, R. (1999), Cartas del Cabildo de la Ciudad de Santo Domingo en el siglo XVI, Santo Domingo
- Rojas, J. L. de (1993), A cada uno lo suyo. El tributo indígena en la Nueva Espana en el siglo XVI, Zamora
- Ruiz, E., J. M. Leyva, A. de Zorita (1999), Relación de la Nueva España, México
- Scholes, F., E. Adams (1957), Documentos para la historia de México Colonial, México, Vol. IV, 17–23
- Scolieri, P. (2013), Dancing the New World: Aztecs, Spaniards, and the Choreography of Conquest, Austin
- Semboloni Capitani, L. (2014), La construcción de la autoridad virreinal en Nueva España, 1535–1595, México
- Sherman, W. L. (1979), Forced Native Labor in Sixteenth-century Central America, Lincoln, London
- Silvermoon, S. (2007), The Imperial College of Tlatelolco and the emergence of a new Nahua intellectual elite in New Spain (1500–1760). Doctoral Dissertation, Duke
- Solano Ruiz, E. (1978), La Orden de Calatrava en el siglo XV: los señoríos castellanos de la Orden al fin de la Edad Media, Sevilla
- Solís Robleda, G. (2003), Bajo el signo de la compulsión. El trabajo forzoso indígena en el sistema colonial yucateco 1540–1730, México
- Solórzano Y Pereira, J. (1972), Política indiana, Madrid
- Subirats, E. (1994), El continente vacío: la conquista del Nuevo Mundo y la conciencia moderna, México
- Teubner, G. (1998), Legal irritants: Good Faith in British Law or How Unifying Law Ends Up in New Differences, in: The Modern Law Review 61:1, 11–32
- Valdeón, J. (2014), Translation and the Spanish Empire in the Americas, Amsterdam, Philadelphia
- Valle, P. (1998), La sección VIII del Códice de Tlatelolco. Una nueva propuesta de lectura, in: De tlacuilos y escribanos: estudios sobre documentos indígenas coloniales, coord. by X. Noguez, S. Gail Wood, Zamora, Zinantepec, 33–48
- Van Deusen, N. (2015), Global Indios. The Indigenous Struggle for Justice in Sixteenth-Century Spain, Durham, London
- Vázquez, G. (ed.) (1992), Alonso de Zorita. Relación de los señores de la Nueva España, Madrid
- Velasco, J. (1894), Geografía y descripción universal de las Indias, Madrid
- Velasco, L. de, A. Rodríguez De Quesada (1957), Información sobre los tributos que los indios pagaban a Moctezuma, año de 1554, in: Documentos para la historia del México colonial, Vol. IV, ed. by F. Scholes, E. Adams, México, 25–234
- Veracruz, Alonso de la (1557), Speculum Coniugiorum, México
- Vigil, R. (1987), Alonso de Zorita. Royal Judge and Christian Humanist 1512–1585, Norman, London
- Vincent, V. A. (1993), The Avila-Cortes conspiracy: Creole aspirations and royal interests, Lincoln
- Wake, E. (2014), The Dawning Places: Celestially Defined Land Maps, *Títulos Primordiales*, and Indigenous Statements of Territorial Possession in Early Colonial Mexico, in: Indigenous Intellectuals. Knowledge, Power, and Colonial Culture in Mexico and the Andes, ed. by G. Ramos, Y. Yannakakis, Durham, London, 202–236
- Wood, S. (1998), The Social vs. Legal Context of Nahuatl *Títulos*, in: Native traditions in the Postconquest World, ed. by E. Hill Boone, T. Cummins, Washington D. C., 201–231

- Yannakakis, Y. (2008), The Art of Being In-Between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca, Duke
- Yannakakis, Y. (2013), Indigenous People and Legal Culture in Spanish America, in: History Compass 11.1, 931–947
- Yannakakis, Y. (2014), Making Law Intelligible: Networks of Translation in Mid-Colonial Oaxaca, in: Indigenous Intellectuals. Knowledge, Power, and Colonial Culture in Mexico and the Andes, ed. by G. Ramos, Y. Yannakakis, Durham, London, 79–103
- Zavala, S., M. de Paz (1954), Del dominio de los Reyes de España sobre los indios, México
- Zwartjes, O., K. Zimmermann, M. Schrader-Kniffki (2014), Missionary Linguistics V/Lingüística Misionera V. Translation Theories and Practices, Amsterdam, Philadelphia