

Herzog, Tamar, *Frontiers of Possession. Spain and Portugal in Europe and the Americas.* Cambridge / London: Harvard University Press, 2015, 384 pp. ISBN 978-0-674-73538-5.

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In this study about territorial frontiers, Tamar Herzog's most important aim is to deconstruct traditional borders, especially historiographical ones. Looking at the history of Spain and Portugal in Europe and the Americas, her conclusion is that rather than being imposed by kings upon the local inhabitants the borders between Spain and Portugal were gradually constructed over many centuries by a multiplicity of groups and individuals who fought for their own interests. The parties involved, the territories that were coveted, and the claims that were made upon them, all changed over the centuries, and the frontiers were constructed at the same time as the properties and the communities themselves. If they took on the appearance of a dispute between the Spanish and the Portuguese, such a situation was, in fact, true in the nineteenth century. However, historians have tended to fossilize this image, projecting it over the centuries and expressing it in terms of present-day political entities, as if these actually preexisted.

Herzog reaches this conclusion by asking how theoretical divisions, such as those laid down in bulls and treaties, could be effectively implemented, how individuals understood, constructed, and defended their rights, and how conceptions regarding the use and the property of the land changed the nature of territorial debates in the long run. In order to expound her conclusions, she presents her arguments in two parts: the first deals with the territorial conflicts in America and the second with conflicts in Iberia. By "artificially" reversing existing narratives and beginning with America, she seeks to show how the one is reflected in the other and to underline her efforts to think about the Old World and the New World as just one single space. So far, we have established two broken boundaries: between the national states and between the narratives about the Old World and the New World; but she goes further and, in painting the picture of the New World with what she describes as a "wide brushstroke" (p. 12), she assembles her material

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thematically, according to actors and arguments rather than places or chronologies: the result is a single space-time description of the American territorial conflicts.

In a sense, this result is quite an interesting one, given that she identifies in all the American conflicts three conditions that were allowed for by European traditions and which granted contemporaries certain entitlements regarding possession. Bulls or treaties might have framed the debate, but only actions could lead to the acquisition of rights. Sharing a common legal tradition, both Spanish and Portuguese agreed that actions had to be performed with the intention to appropriate; possession had to be taken with no opposition (silence could be interpreted as consent); and these actions had to be carried out by vassals or people authorized to take possession of territories for the king. In the Americas, the question as to who was a vassal of which country involved not only Europeans but also the indigenous populations so that the precepts that regulated the relationship with natives and the mechanisms to transform them into vassals of the royal power were both equally important. At first, the process required a pact with the natives through their conversion to Christianity, highlighting the importance of the missionaries' role in converting native land into European territory and their consequent involvement in territorial conflicts. By the mid-to-late eighteenth century, the clergy had given way to other actors, consisting mostly of military and administrative personnel, and the conversion of the natives was followed by a treaty that stressed the importance of indigenous political allegiance and acculturation. In both cases, not only the territory, but also the indigenous people, could be possessed and become the property of one power or the other. Challenging the assumption that these treaties signed with the indigenous populations were the result of negotiations, Herzog argues that they were instead a European legal and political construct.

The natives' right to land was central to sixteenth and seventeenth-century debates regarding the rights of Europeans in the New World. However, according to Herzog, while at this time there was a general agreement among jurists that, unlike private property, the political space was immutable and unchanging, these same jurists gradually began to question these assumptions, using notions about private property to create doctrines about public borders and jurisdictions. Such developments signaled the coming of a new age, in which land would be the property, not of those who had it "first", but instead of those who used it "better" (p. 124). From the seventeenth century onwards, rather than respecting the indigenous population's past entitlements, Europeans, both jurists and actors in the field, concluded that those territories that were not used in accordance with

their understanding of improvement were consequently open to their penetration. As a result, the indigenous adherence to one country or another may have guaranteed the Spanish or the Portuguese the right to possession of the land, but it did not imply that the natives themselves had effective possession or rights in detriment to European domination. This means that despite incorporating the natives' right to land in their conflicts with one another, both the Spanish and the Portuguese denied these implications when dealing with the natives themselves.

The second part of the book is dedicated to the conflicts in Iberia. Here, the author pays more attention to contexts, returning to the chronology and examining in detail a number of specific confrontations. She shows that these conflicts were much more complex than we normally imagine and that they developed over a long time, from the tenth century onwards, some of them ending only in the early twentieth century. Over time, the actors constantly changed, as did their identity and their behavior, as well as the objects that they coveted and the claims that they made. Sometimes conflicts placed municipalities belonging to the same royal power in opposition with one another, even spreading to others from different kingdoms. Opponents did not always decide matters by establishing separate territories, and there were, in fact, some situations where the agreement that was reached was the common use of the land. On other occasions, the dispute was related to the receipt of taxes, and involved religious rather than civil institutions. In several of these cases, rather than becoming a state issue, frontiers were constructed by private interests. Therefore, the construction of the border between Spain and Portugal should not be related as the narrative of a state growing in prominence against local wishes, nor as an alliance between a state and local communities that led to the nationalization of the frontier. Depending on the loyalty of individuals, something that could not be gained simply by calling upon their nativeness (the subject of a previous book of hers, *Defining Nations*, 2003), border construction did not involve nationalist ideologies, but rather commercial and political choices.

Looking at both the Old World and the New World together, Herzog stresses a number of aspects that seem to be similar, but there are also others that reveal substantial differences. Just as was the case in the New World, most European conflicts focused on the question of "possession," but, contrary to America, in Europe there was no presumption that all incursions into other territories represented acts of possession. On both sides of the ocean, violence and peace were alternative mechanisms that complemented one another, and while military conquests clearly played a role in the

acquisition of territory, most territorial changes occurred in peacetime. In America, conflicts tended to be shorter, and the memories they invoked were much closer in time than in Iberia. Contrary to what might be imagined, in Iberia, monarchs were not involved in these conflicts, and their officials, when involved, acted not as interested parties, but instead as judges. At a glance, the analysis of the Iberian border conflicts over the long term demonstrates that it was only the locals who fought, struggled, and insisted on maintaining divisions, not the kings. However, one difference that Herzog identifies in the conclusion, but does not explore in any detail, is that, in America, kings tended to be more involved in the disputes.

In any case, what seems to be most important to her argument, and allows us to consider the two sides of the ocean as being one single space, is the coming together of public and private law in the definition of land rights, which changed attitudes towards property and the jurisdiction over territories. This combination of public and private interests in the conflicts that she studied led Herzog to conclude, while writing this book, that, after all, her real subject of analysis was not frontiers or borders, but the territories themselves. Rather than simply involving national interests, these conflicts were multifaceted, being centered upon the agency of a multiplicity of individuals and interests. If, on the one hand, she focuses on agency, on the other hand (and this represents the breach of an important methodological frontier) she attaches great importance to the way in which the law and the development of legal thought mattered in all these dynamics, arguing that the gap between “practice” and “law” was less important than we usually imagine and that the actors in the field were aware of the legal traditions and acted in accordance with these.

In the introduction, she states that, when taken together, the American and Iberian parties should shed light not only on the histories of Spain and Portugal and their overseas domains, and not only on the historiography about the formation of borders, but also on the way in which we write history. Indeed, this book about frontiers proposes breaking down the boundaries between national, colonial and metropolitan, as well as North and South imperial narratives, calling for an integrated history of modern spaces. In this study, such integration is concerned, first and foremost, with the changing attitudes towards questions of property and jurisdiction in a process that entailed a new vision of the territory and led to the development of territorial conflicts in all the spaces mentioned.

But these assumptions also have important implications for present-day territorial conflicts, thus explaining why we write history. If, according to her, the main task of

historians today is to explain not how we got to where we are now, but what we missed in the process of getting here, this book reveals how a legal way of thinking based on a universal natural law has given way to another doctrine that emphasizes the importance of human agency, civilization and improvement in dissolving the borders between public and private entitlements. In a sense, this means changing to a historical juridical order that, paradoxically, prevents the use of history as an argument in legal conflicts because history is constantly changing and there is no static order of things.

This might, in fact, be the key issue relating to the differences between the New World and the Old World, which are centered upon the land taken from the New World by Europe. Although, since the Second World War, Francisco de Vitoria's ideas about native land rights have become a point of reference in so-called international law, the fact remains that the contradiction between indigenous populations' historical rights and their economic development is nowadays rarely resolved under the law. Herzog argues that historical rights are an oxymoron and that, while they might play an important political role, they cannot be considered to be part of history. But, by presenting historical reality as more complicated than it appears, which alternative way of thinking can historians illuminate without taking a strong political stance on these conflicts? These assumptions do, in fact, presuppose that we consider the New World and the Old World as a single space under European law. But how should indigenous populations living in multiethnic states proceed today, without arguing in favor of their original rights to the land, as Vitoria stated? Such a position cannot be sustained by private use, but only by a communal use of the land, and it relates to a period prior to the arrival of European law.