

Law in the Conquest of L.A.

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David Samuel Torres-Rouff, [Before L.A.: Race, Space, and Municipal Power in Los Angeles, 1781-1894](#) (2013).

Law and conquest are deeply intertwined phenomena. We typically think of conquest as the physically violent and genocidal subjugation of people. But as a process, conquest involves the subjugation of both people and space and the reorganization of people within space. Conquest can only be consolidated, as Chief Justice John Marshall explained in *Johnson v. M'Intosh* (1823), when it generates new sovereign claims and legal rights. Law, however, is not merely a consequence of conquest, it is also a constitutive element of it. The re-organization of space depends upon and generates ideas about how people relate to one another within that space, as well as ideas about how space can be owned and used, by whom, and to what purposes.

In *Before L.A.*, [David Torres-Rouff](#) explores how Spanish, Mexican, and American migrants conquered Los Angeles by tracing “an interdependent, mutually constitutive relationship between race and space.” (P. 13.) Drawing on critical geography, which draws links between the built environment and social relationships, Torres-Rouff explains how, “In much the same way that race making leads to the formation of new individual and collective identities, place making leads to the transformation of previously neutral spaces into places with particular meanings that contain their own individual and differentiated identities.” (P. 11.) More specifically, he uses this interdependent relationship between race and space to demonstrate how local contests for power over land, labor, and water were integral to the construction of race in early Los Angeles.

Critical to this re-organization of people and space was law. Torres-Rouff does not use “law” as a major category of analysis himself, preferring the term “policy” in most instances. But what he terms “policy” was the legislative and administrative decisions about land use by the Los Angeles city council/*ayuntamiento*. It is in these decisions and their connection to the construction of race that legal historians will find *Before L.A.* to be an important and creative work. Through land, labor, and water policy, reinforced by occasional extralegal violence, people, places, and identities were configured, subdued, subordinated, and reconfigured over the course of the nineteenth century. Torres-Rouff’s book is a wonderful exploration of how, through law, race and space were construed simultaneously.

For example, L.A.’s founding period (1781-1840) involved the displacement of a military-religious form of colonization by a civil-economic form that was achieved in large part through law. During this period, the plaza, a “physical and symbolic center” in most towns throughout much of the rest of New Spain (P. 26), replaced the mission as the center of economic and political life, and communal economic norms guided land, labor, and water policies, displacing religious concerns. The *ayuntamiento* (or city council) distributed land on the condition that the user make improvements for the benefit of the community and created a servile laboring class through vagrancy laws. Finally, the mestizo founders (*pobladores*), who were by no means elites within the traditional Spanish *casta* system, created a fluid and distinctly localized racial system, through the allocation of land and water, as well as through its labor policies, that marked people by a combination of ethnicity, nativity, ancestry, occupation, land, and performance, rather than by phenotype.

This communal order had barely consolidated when new norms regarding space and race were introduced. American immigrants brought with them ideas about race rooted in phenotype and ideas about property rooted in market norms, creating what Torres-Rouff calls the “intercultural” period (1840s-1870s). The Mexican-American War accelerated this process as California became an American state subject to a new legal system that privileged individual over communal rights. But familial, economic, and political ties between established Mexican and emerging American elites

enabled Angelenos to combine communal and market norms, however uneasily. For instance, when the federal Land Act required Mexican property owners to prove their title in court (which they could not because they held title to the use of the land rather than land itself), the Los Angeles city council passed the Free Land Law of 1852 that granted title to land on the condition of improvement, and recognized prescriptive rights, or long-standing uses, as evidence of ownership.

But as the American population grew in the 1850s and 1860s, pressure began to build on the “intercultural” order. The plaza became simply one of a number of political and economic sites. Phenotypic norms about race began to affect the ways that Angelenos thought about property and citizenship. Vigilante violence and sectional politics over slavery reinforced this trend. But it was during Reconstruction that the modern notions about race and space began to emerge in full force. Migration and settlement patterns began to make phenotype a more salient characteristic, as Mexicans, Chinese, and Americans resided in their own distinct neighborhoods. In the 1870s, the city council created a racialized electoral system based on wards, which tracked the segregated residential patterns. This inscription of race onto a map for the first time was an important turning point in L.A.’s history as it began to seriously undermine the cooperative politics of the preceding decades.

The modern period, which began to emerge in the 1870s and 1880s, is where Torres-Rouff’s connection between race and space becomes most interesting. It was in this period that the white American elite gained control of the city council. What Torres-Rouff finds is that the council’s most seemingly innocuous decisions about land—the laying out and paving of streets and the creation of a sewer system—marked L.A. as a modern racially segregated city. These infrastructural benefits were conferred only upon white American neighborhoods, ensuring the political and economic dominance of the white community, while marking the Chinese, Mexican, and other communities of color as not only poor, but as threats to the public health.

Street paving was perhaps the most lasting symbol of law’s conquest of L.A. A symbol of dominance over the natural landscape, it also involved the subjugation of specific groups of people through the seemingly neutral operation of a legal decision. Street paving represented the new racial order consciously created by whites without the need for physical violence. In the end, Torres-Rouff’s history of early Los Angeles demonstrates what Chief Justice Marshall knew all along—that ultimately law conquers all.

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