

## *Negotiating usefulness: The Utilitarian Approach to Immigration in Bourbon Spanish-America*

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DOI 10.26337/2532-7623/BIERSACK

Riassunto: Il presente articolo adotta un approccio utilitaristico allo studio della migrazione dalle colonie spagnole nella madrepatria durante il periodo borbonico (1700-1808). Esamina i dibattiti sull'utilità degli stranieri; i modi con cui la loro presenza era considerata; i conflitti di competenza; e, infine, i criteri che potevano intervenire nel tollerare gli stranieri "utili". L'ammissione di uno straniero era il risultato di una complessa negoziazione tra diversi attori sociali ed aveva lo scopo di ridurre i flussi migratori a interessi di parte. L'articolo si basa principalmente su fonti inedite, provenienti dagli archivi dell'America spagnola (Buenos Aires, Santiago del Cile, Sucre, Avana, Santa fe e Cordova in Argentina), dall'Archivio generale delle Indie di Siviglia e dall'Archivio storico nazionale spagnolo di Madrid.

Abstract: The present article reconstructs the utilitarian approach to migration by the Spanish colonial rule during the Bourbon period from 1700 to 1808. It analyses debates about the usefulness of foreigners, how their utility was examined, competence conflicts, and finally, which other criteria intervened in the toleration of useful foreigners. The question of their admission was a complex negotiation between many actors which aimed to conduct migration towards their own interests. The article is based mainly on original and unpublished sources from archives in Spanish America (Buenos Aires, Santiago de Chile, Sucre, Havana, Santa Fe and Córdoba in Argentina), *Archivo de Indias* in Seville and the Spanish National Archive in Madrid.

Keywords: Bourbon Spanish-America; migration; usefulness; strangers.

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Saggio ricevuto in data 29 aprile 2017. Versione definitiva ricevuta in data 3 luglio 2017

## **Abbreviations**

AGI = Archivo General de Indias (Seville)

AGNA = Archivo General de la Nación Argentina (Buenos Aires)

AHN = Archivo Histórico Nacional (Madrid)

AHPC = Archivo Histórico de la Provincia de Córdoba (Argentina)

AHPS = Archivo Histórico de la Provincia de Santa Fe (Argentina)

ANB = Archivo Nacional de Bolivia (Sucre)

ANC = Archivo Nacional de Chile (Santiago)

OHC = Oficina del Historiador de la Ciudad (Havana)

## **Introduction: «Good» and «Bad» Immigrants**

The distinction between «good» and «bad» immigrants is very familiar to the European public in 2017. Governments try to control immigration by applying criteria to distinguish between those who are allowed to stay and those who have to be expelled and deported. «Good» immigrants are defined by, for example, their origin from Western countries, by their need for protection – refugees from war and persecution have the right to asylum – or by their skills. Immigrants who are expected to be useful within the host society as engineers, doctors or computer specialists have more possibilities to stay than others who might possibly compete with local citizens for the same but scarce jobs. «Bad» immigrants

are those who supposedly come in for economic reasons, escaping hunger and poverty in their home countries, or those who are reputed to be dangerous for political reasons, as some governments and politicians suppose that, for example, Muslim migrants are.

The separation of «good» and consequently tolerated immigrants from «bad», therefore, rejected ones, was also very common in early modern Spanish America<sup>1</sup>. Since the very beginning of colonisation it was forbidden for non-Spaniards to immigrate to Spain's American domains. Spanish-America should be purely Catholic and linked politically and economically only to the mother country. All men – foreign women were allowed to stay – who weren't native of the kingdoms of Spain had no right to go to the Indies. But there were exceptions. A foreigner could obtain a special licence from the King which provided him permission to pass and live there – sometimes only for a fixed term of years. Philip III loosened this restriction to foreigners in America, giving useful craftsmen (*oficios mecánicos útiles*) who were of good behaviour and Catholics, a permission to stay<sup>2</sup>.

In early modern times, however, the observation of the laws was quite irregular. For Spanish-America the sentence «la ley se obedece, pero no se cumple» (the law is obeyed, but not observed) became stereotypic<sup>3</sup>. This also was true with regard to the laws concerning foreigners. Other principles like integration, usefulness, humanitarian concerns, security, religion, competition, or even conflicts about competence (which institution had to decide

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<sup>1</sup> T. HERZOG, *Defining Nations. Immigrants and Citizens in Early Modern Spain and Spanish America*, New Haven, Yale University Press, 2003, pp. 1-2.

<sup>2</sup> R. KONETZKE, *Legislación sobre inmigración de extranjeros en América durante la época colonial*, in «Revista internacional de Sociología», 3 (1945), pp. 269-299.

<sup>3</sup> V. TAU ANZOÁTEGUI, *La ley "se obedece pero no se cumple": en torno a la suplicación de las leyes en el Derecho Indiano*, in *V Congreso del Instituto Internacional de Historia del Derecho Indiano*, vol. 2, Quito, Ediciones Corporación de Estudios y Publicaciones, 1980, pp. 55-112.

about the foreigner's rights and toleration) influenced the complex negotiation of migration processes.

## Debating Usefulness

The utilitarian approach to controlling immigration only seems clear and coherent on the surface. A closer look reveals a lot of uncertainties which gave way to disputes. The main conflict arose on the question of which foreigners were useful (and therefore had to be tolerated), and which immigrants weren't (and accordingly had to be expelled). This was due to the fact that the characteristics of usefulness weren't clearly defined. The laws declared only useful mechanical craftsmen to be accepted. Thus carpenters, smiths, bell founders and watchmakers were legally allowed to live in the Indies if they were Catholics.

Indeed, it seems that there were a lot of foreign craftsmen there. Jean-François de La Pérouse observed while staying at the Chilean port of Concepción that nearly all craftsmen in the city were foreigners<sup>4</sup>. This judgement may have been exaggerated, but the high numbers of foreign craftsmen living in Spanish America was a fact which sometimes caused conflict in spite of their legal toleration. Competition to local practitioners was a strong argument against the foreign presence, so that local city councils (*Cabildos*) sometimes requested the expulsion of foreign craftsmen. The Lawyer of the city council (*Procurador General*) of Havana denounced them because they would take away work from poor local craftsmen. Additionally, he suspected some of them to be Protestants who weren't allowed to stay<sup>5</sup>. In Buenos Aires it was also the *Procurador General* who demanded some years later the expulsion of all foreign craftsmen because there were enough local ones. He alleged that many foreigners didn't have any knowledge

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<sup>4</sup> «Tous les ouvriers de la Conception sont étrangers». *Voyage de la Pérouse autour du monde*, ed. by L.A.D. MILET-MUREAU, vol. 2, Paris, 1798, p. 63.

<sup>5</sup> OHC, Actas de Cabildo del Ayuntamiento de la Habana, vol. 22, fols. 473-475.

to practise as craftsmen, but used their office merely as an excuse to stay. Thus, rather than being useful, they were harmful because they did bad work<sup>6</sup>.

The *Consulado* (merchant guild) of Lima demanded in the 1760s the expulsion of foreign craftsmen, putting their usefulness under discussion. It criticized that many of them applied to the courts for toleration presuming to be useful as musicians or instructors for dancing. According to the guild, these offices were not useful and only functioned as an excuse to be excluded from expulsion, whereas in reality they were traders and engaged in commerce – an activity strictly forbidden to foreigners in Spanish America. The viceroy was given finally the faculty by the king to tolerate such foreigners who indeed were useful (and not musicians or only dancers) and by no means traders<sup>7</sup>.

It seems that the number of foreign craftsmen in Lima was still high in the 1780s. At least, the *Cabildo* tried to charge the foreign watchmakers with a special tax, because it observed that many foreigners owned watchmaker shops and supposedly became rich by their profession. Thus, the counsellors suggested that before leaving the city and going back to their countries they should pay a contribution to the place where they had earned so much money<sup>8</sup>.

In spite of these protests the government normally didn't follow the *Cabildos'* or the *Consulados'* attempts to expel or charge the foreign craftsmen. Moreover, in many cases they sheltered other foreigners too, ones who were not mechanical craftsmen, but nevertheless useful to the public. In 1768, for example, the *Audiencia* of Chile ordered the expulsion of all foreigners, especially

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<sup>6</sup> *Acuerdos del Cabildo de Buenos Aires (1729-1733)*, serie II, vol. 6, Buenos Aires, Tall. Gráf. de la Penitenciaría Nacional, 1928, pp. 554-558.

<sup>7</sup> To the expulsion of foreign merchants from Lima see C. PARRÓN SALAS, *El nacionalismo emergente y el comercio. La expulsión de extranjeros de América (Perú)*, in *Actas del XI Congreso de la AHILA*, Liverpool, University, 1998, vol. 1, pp. 200-218.

<sup>8</sup> AGI, Lima, 802, s.f. Cabildo secular de Lima, 1786 (Lima, 5. 9. 1787).

merchants, while at the same time excluding doctors, surgeons, musicians, quarry workers, bakers, cooks, tailors, locksmiths «and such [professions] of similar nature» from this measure<sup>9</sup>. The admission of musicians, cooks, surgeons or doctors was not sheltered by the law as they were not mechanical craftsmen. However, the *Audiencia* of Chile and also the Council of the Indies usually interpreted the spirit of the laws in a more loose sense, permitting every useful foreigner – whether he was a craftsman or not – to stay<sup>10</sup>.

A special and much more problematic case was the presence of foreign bakers in Spanish America. During the 18<sup>th</sup> century a lot of French bakers set sail for America and opened bakeries there. Their innovation was to mass-produce bread with big, new ovens. Not only was the quality of French bread better than the homemade variety made by the small producers, it was also cheaper<sup>11</sup>. But innovation didn't stop there. The Frenchman Pedro (Pierre) Godonet, for example, got a royal licence to go to Mexico where he thought to produce bread with a new recipe he invented himself<sup>12</sup>. What at first looked like clear progress completely in line with Enlightenment reforms, however, led to a lot of criticism and discussion within colonial cities. The competition from French bakers was a serious threat for the small producers who weren't able to compete with them. In 1712 in Havana, the *Cabildo* asked the General Captain to expressly forbid baking, not only to the French, but also to all non-local bakers. In Buenos Aires the foreign bakers were even blamed for being responsible for the increase in bread prices – a

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<sup>9</sup> ANC, Fernández Larraín, 20, s.f. Audiencia of Chile on August 19, 1768.

<sup>10</sup> AGI, Chile, 253, exp. 9, fols. 663-668. The Crown Attorney (fiscal) of the Council of Indies noted in 1774, that although by law only useful mechanical craftsmen could be tolerated, the aim and reason of the law made it possible to extend toleration in some cases to non mechanical professions.

<sup>11</sup> See L.L. JOHNSON, *The Entrepreneurial Reorganization of an Artisan Trade. The Bakers of Buenos Aires, 1770-1820*, in «The Americas», 37, (1980), pp. 139-160.

<sup>12</sup> J.A. HOUDAILLE, *Frenchmen and Francophiles in New Spain from 1760 to 1810*, in «The Americas», 13 (1956), pp. 1-29, p. 7.

completely false argument against them, but one that was useful to distract responsibility from the local merchants who exported large amounts of wheat<sup>13</sup>.

It wasn't clear if bakers were mechanical craftsmen, nor if they were useful or prejudicial for the public. In Santa Fe in what is now Argentina, the city council discussed this question very controversially when, in 1772, a French baker arrived in the city with the intention of opening some bakeries. Some councillors thought it a useful idea because the bread was better than the local bread, as well as being cheaper. Others, however, feared that the competition from the French would impact on the smaller local producers. As any decision whether or not to allow the French bakers to operate should be taken according to the public benefit, the council wasn't able to decide and asked the governor of Buenos Aires for advice on what to do<sup>14</sup>. The government usually conceded toleration to the foreign bakers. In 1772 the Council of Indies declared that the French baker of Bogotá, Antonio Duran, had to be excluded from the expulsion, as his profession was «mechanic and so useful for the public»<sup>15</sup>.

Foreign merchants' residence in Spanish America was also problematic. Not only were they not conceived as useful, the government actually thought them to be pernicious. They competed with Spanish merchants, and due to their commercial activities they seemed to be responsible for the drain of riches from America into the treasure chests of their French or British enemies. The expulsion of foreign merchants from the Spanish American ports,

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<sup>13</sup> JOHNSON, *The Entrepreneurial Reorganization*, pp. 142-145; AGNA, IX, Bandos, Libro 2, fols. 248-255; for Havana: OHC, Actas de Cabildo del Ayuntamiento de la Habana, vol. 20, fols. 49v-50r.

<sup>14</sup> AHPS, Actas del Cabildo de Santa Fe de la Vera Cruz, vol. 14, fols. 185v-190.

<sup>15</sup> AGI, Santa Fe [de Bogotá], 685, exp. 20.

thus, was a constant concern for the Spanish government, the merchant guilds or particular Spanish merchants<sup>16</sup>. In Córdoba (present-day Argentina), for example, the local Spanish merchants denounced some Portuguese as illegally residing and trading within the province. The accused Portuguese, however, stressed that their activity was very useful, as because the population was increasing merchants were essential to provide the province with goods from the port in Buenos Aires. The *Cabildo* of Córdoba and even the Governor agreed with this opinion. Not so the Spanish merchants who applied to the *Audiencia* of Charcas, which decided according to the laws that the Portuguese merchants should be expelled. The Court of Justice conceived the laws as binding and without any space to tolerate foreign merchants<sup>17</sup>. Until the eve of independence, when the Spanish American ports were opened to foreign trade, the usefulness of foreign merchants was no criterion to admitting them officially<sup>18</sup>.

## Proofing Skills

Debates arose not only about the usefulness of a profession like in the case of the foreign bakers. In cases involving architects, engineers, miners, doctors and surgeons, in which usefulness was beyond doubt, local authorities sometimes wanted to prove that the interested foreigner had the ability to exercise his profession. If he wasn't able to do so, he was in danger of being expelled. This hap-

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<sup>16</sup> HERZOG, *Defining Nations*, pp. 111-116. To the Spanish commercial politics and the attempts to close its Atlantic trade to foreign influences see G.J. WALKER, *Spanish Politics and imperial Trade, 1700-1789*, London, Palgrave Macmillan, 1979.

<sup>17</sup> AHPC, Gobierno, tomo 4, leg. 2.

<sup>18</sup> See A.J. PEARCE, *British Trade with Spanish America, 1763-1808*, Liverpool, University Press, 2007, p. 249.

pened in 1791 to the Portuguese Jacinto Alburquerque who declared himself a skilled miner. But as he couldn't prove it, he had to leave Antioquia, city of the New Kingdom of Granada<sup>19</sup>.

One way to demonstrate skills was to present a witness who could vouch for the qualities of the foreigner. In Santiago de Cuba the Irishman Juan Mac Imery was acknowledged his qualities as a doctor by testimonies of the members of the Cathedral Chapter and their families. In 1793, they asked the Council of the Indies for his toleration, because there was a lack of doctors in the city, and the Irishmen also had demonstrated charity with the poor, curing them for free<sup>20</sup>. Due to the general expulsion of foreigners from Córdoba, the engineer Juan Bautista Pardo had to present several witnesses to prove that he was useful for the construction of the Cathedral, so that finally he was allowed to stay<sup>21</sup>.

Sometimes, the government undertook its own examination and interrogated clients or patients of the foreigner to determine if he was skilled. The Portuguese Joaquín de Leyte, for example, who arrived in the Río de la Plata as a ship surgeon, had neither a licence to stay in America nor to practise as a surgeon. When the governor of Córdoba, Rafael de Sobremonte, became aware of his stay in Salta, he undertook an investigation, asking neighbours and local practitioners about his qualities. According to the testimonies the Intendent concluded that Leyte's skills as a surgeon were insufficient. As a result, he was finally expelled from America<sup>22</sup>.

Some foreign doctors, surgeons or architects owned certificates which testified their knowledge and ability. The Portuguese Franciscan Daniel Botello, for example, presented his approbation given in Lisbon and dispensation given by the Pope that he was

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<sup>19</sup> R. PITA PICO, *Controles y estatutos jurídicos de migrantes extranjeros al Nuevo Reino de Granada en la conquista y la colonia*, in « Boletín de Historia y Antigüedades », 95 (2008), pp. 741-768, pp. 758-761.

<sup>20</sup> AGI, Santo Domingo, 1484, exp. 37.

<sup>21</sup> ANB, EC 1756/35.

<sup>22</sup> AGI, Buenos Aires, 70.

allowed to operate as a doctor. The Council of the Indies, however, didn't accept both testimonies. They rejected the first, because the approbation of Lisbon wasn't valid in Spanish territory, and the second because the Pope's dispensation had to pass via the Council to be accepted. However, the Council concluded that Botello could be tolerated as a doctor because of his usefulness, but he had to undertake a valid medical exam first<sup>23</sup>.

Legally, the competence to examine doctors and surgeons was held by the corresponding *Protomendicatos* who defended its jurisdiction with eagerness. When the Council was asked in 1766 by Englishman Eduard Hamlin to allow him to reside in Havana as a doctor, it ordered him to prove his ability at Havana's *Protomendicado*. Neither his ten years' experience as a doctor there, nor his former service as a surgeon in the Spanish army, prevented the Council from doing so<sup>24</sup>. The Council was careful not to intervene in the *Protomendicato*'s competences. In many cases, thus, the decision about the toleration of foreign surgeons and doctors *de facto* wasn't held by the Council but by the *Protomendicado*. That's why the Council of the Indies refused to accept the licence as a doctor from the *Protomendicato* of Madrid which the French Matias Grimau, resident in Buenos Aires, possessed. Besides Grimau was an experienced surgeon who for years had served as *Cirujano mayor* in the fortress of Buenos Aires, he once more had to be examined by the corresponding *Protomendicato* of Lima or – as it was far away – by competent surgeons of Buenos Aires. Obviously, the

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<sup>23</sup> AGI, Chile, 253, exp. 9, fols. 647-648 und 663-668. The background of Botello's case is the expulsion of all foreign clerics and friar ordered in 1767. Botello exercised as doctor first in Valdivia and then in Santiago de Chile.

<sup>24</sup> The king finally didn't agree and prohibited Hamlin the residence in his American domains in spite of the fact that the Englishmen was married in Havana and had four children. Probably the king suspected that Hamlin had collaborated during the previous British occupations of Havana with the enemy. AGI, Santo Domingo, 1458, n. 2.

Council feared jurisdictional competencies with the American corporations<sup>25</sup>.

These procedures by which experienced doctors had to prove their competence were not only a burden. They also protected the foreign migrants against begrudging locals who denounced them because of their foreign status. One of this malevolent group, Per-vacio Rubio from the province of Maracaibo, accused the French of always entering the country under the pretext of being doctors, when in reality they came in «to kill Spaniards as a popular adage said». The object of his ire was the French doctor Pedro Chauveau, who for 15 years was living and practising in the Village of San Cristóbal. He was a well respected man who had succeeded in being elected as the village's first representative – a post Rubio himself had tried to get. The denunciation which so obviously tried to eliminate his competitor fortunately didn't proceed<sup>26</sup>.

Doctors and surgeons were the foremost cases in which practitioners had to demonstrate their ability. However, they were not the only ones. Craftsmen, too, were often examined before being tolerated. One such example occurred in 1748 in Buenos Aires, where the *Cabildo* was given the competence by the Governor to indicate useful foreign craftsmen who should be excluded from the general expulsion. To identify them, the *Cabildo* requested the guilds to designate the foreign masters and officials of their corresponding profession, and to examine them. With the help of this information the councillors finally determined that two English carpenters, a Portuguese turner (the only one in the city), a Portuguese button-maker, two French barbers, a Italian smith, a Portuguese surgeon and a Portuguese tailor should be tolerated<sup>27</sup>.

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<sup>25</sup> AGI, Buenos Aires, 225, exp. “Matías Grimau”, s.f.

<sup>26</sup> AHN, Estado, 4829, s. f.

<sup>27</sup> *Acuerdos del Cabildo de Buenos Aires (1745-1750)*, Serie II, vol. 9, Buenos Aires, Tall. Gráf. de la Penitenciaría Nacional, 1931, pp. 342, 359-360 and 541.

In Mexico, also foreign architects were examined before they were allowed to involve themselves in important construction projects. The French architect Juan (Jean) Crozet, who was contracted by the Bishop of Monterrey to oversee the construction of the Cathedral, had to be examined first by the *Real Academia de las tres nobles Artes de San Carlos* of New Spain. Only when he was approved was he allowed by the government to hold the title of architect and to work in Monterrey<sup>28</sup>.

## Competence Conflicts

Certainly, *Protomendicatos*, guilds or Royal Academies were competent institutions to examine foreign doctors or architects. However, competence, in general, was a regular source of conflict in early modern society. Also the question who could examine skilled foreigners and, thus, influence on his admission in the Indies bore a lot of competence conflicts. Legally, the only one to admit foreigners was the king. That's why the Governor of Caracas didn't dare to admit Frenchman Luis Herduin, although his admission as watchmaker and the only bell founder in the city was sheltered by the laws. He preferred to ask the Council of the Indies, which finally consulted the king for his approval<sup>29</sup>. In most cases, however, the American authorities tolerated useful foreigners by their own authority, whereas the Council of the Indies and the king were informed only in cases of conflict or doubt.

One such conflict occurred in 1783 in Mexico City. The question was which institution had the competence to examine the French surgeon Juan Morin. Morin had already served as surgeon of a Spanish infantry regiment in New Orleans, when he came to Mexico City in order to establish himself as a doctor. The government ordered him to present his certificates not only at the Royal

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<sup>28</sup> AHN, Estado, 4180, n. 9, fol. 65.

<sup>29</sup> AGI, Caracas, 84, n. 156.

*Protomedicato*, but also to Manuel Antonio Moreno, Professor of Surgery and Anatomy at the *Real Colegio de Cirugía* (Royal School of Surgeons), where many military surgeons had studied. Surveying these certificates, both institutions had to give their opinion as to whether or not Morin could be admitted as a doctor. For Moreno, the fact that Morin had served as a surgeon in a regiment was sufficient proof of his ability – he thought it likely that he had been examined before entering the service – and also to admit him like a Spaniard and not like a foreigner because he was engaged in royal duties. The *Protomedicato*, however, rejected the jurisdiction of the *Real Colegio* in this particular case, because to them it was only competent as long as Morin served in the military; but as the latter wished to work as an ordinary doctor, it was not up to Moreno but only to the *Protomedicato* to examine him and grant the corresponding licence. It rejected not only Moreno's competence, but also the validity of a possible examination of Morin, when he entered the royal service or the certificates from France, by which the French had tried to demonstrate his ability<sup>30</sup>.

The background of the conflict were deep rooted disputes between the Royal *Protomedicato* of Mexico City with the members of the Royal School of Surgeons, and especially with Moreno, about the jurisdiction to issue licences for the exercise as doctor or surgeon. In addition, Moreno was from the Spanish Peninsula. As such he was criticised by the Mexican *Protomedicato* for following foreign fashions («modas extranjerizantes»). That's why it seemed to be a double provocation for the Mexican doctors to see Moreno supporting a French military surgeon, arguing that another exam by the *Protomedicato* wasn't necessary<sup>31</sup>.

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<sup>30</sup> AHN, Estado, 4190, fols. 7-24. Instancia de Juan Morin para que se le dispense de extranjero a fin de incorporarse en el Real Protomedicato.

<sup>31</sup> AHN, Estado, 4190, fols. 7-24. To the clash between the *Protomedicato* (*doctores latinizantes*) and the professors of the Royal School of Surgeons (*cirujanos romansistas*) see: A. MORALES COSME, P. ACEVES, *Los cirujanos-médicos en México. 1802-1838*, in «Llull», 29 (2006), pp. 95-119, pp. 99-100.

The viceroy, following his legal assessor, finally decided that no exam could be taken. As a foreigner, Morin had to present first a naturalisation letter if he wished to live and practise as a doctor in Mexico. Only useful mechanical artisans were tolerated by the law, but «surgery is not one [mechanical] but royal liberal [art]». Morin, thus, was ordered to go back to his regiment in New Orleans. The legal assessor even criticised the erroneous concept of the public to take foreign doctors for more than the local ones, something that was seen with anger by the Mexican patricians. He blamed the foreigners for coming to Mexico, earning money and finally taking it back to their countries. That's why, he concluded, no foreigners should be examined or admitted as a surgeon or doctor without a previous royal or vice-regal licence. Now the *Protomendicato* was alarmed, because so far they had examined all foreigners, including those who had no naturalisation letter. Probably the *Protomendicato* took it for granted that doctors who were examined by it and proved their ability were tolerated by the viceroy automatically. Although it wanted to go on with this practice, the viceroy denied it and sent the whole case to the king who had to decide what should happen, not only with Morin, but with all foreign doctors who had been admitted without royal license. The king's answer in 1784 was harsh, to say the least, in its content: Morin had to leave Mexico, together with all doctors who practised without a licence. Furthermore, every foreigner who had no right to stay should be expelled<sup>32</sup>.

The case of Morin was prototypical for early modern disputes about competencies, as well as specific for Mexico, where jurisdictional conflicts between the European-dominated Royal School of Surgeons and the Mexican-dominated *Protomendicato* and also between the vice-regal/royal jurisdiction and the *Protomendicato* prevailed. Morin wasn't allowed to testify his ability by the presentation of certificates nor by a practical exam before the

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<sup>32</sup> AHN, Estado, 4190, fols. 7-24.

*Protomendicato*. The latter was denied by the king who was keen to defend his sovereignty. It was solely up to him, not the viceroy nor the *Protomendicato*, to give dispensation from the laws, whereas he interdicted to admit foreign doctors without his approval. In the end jurisdictional competencies prevailed over usefulness.

### **The Ambivalent Position of the Crown Towards Useful Foreigners**

According to the settlement policy ideal of the Illustration the growth of population was seen as beneficial to the state and its power<sup>33</sup>. During the reign of Charles III these ideas changed the negative approach towards the presence of foreigners in the Spanish domains<sup>34</sup>. Although the strict laws that impeded the immigration of foreigners to Spanish America were still valid, the government, in some ways, suspended its application. As Minister of the Indies, José de Gálvez fostered populating projects in America, where the technical knowledge of foreign planters could be very useful for the development of coffee and sugar culture in the Caribbean. A first experiment to populate American domains with foreign farmers was made in Trinidad, where in 1776 French and Irish Catholics were allowed to immigrate<sup>35</sup>. In 1778 the king also gave

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<sup>33</sup> See J. NIPPERDEY, *Die Erfindung der Bevölkerungspolitik: Staat, politische Theorie und Population in der Frühen Neuzeit*, Göttingen, Vandenhoeck & Ruprecht, 2012.

<sup>34</sup> J. SARRAILH, *La España ilustrada de la segunda mitad del siglo XVIII*, Madrid, Fondo de Cultura Económica, 1979, pp. 328-333.

<sup>35</sup> L. NEWSON, *Foreign Immigrants in Spanish America: Trinidad's Colonisation Experiment*, in « Caribbean Studies », 19 (1979), pp. 133-151, p. 138-139; M.C. CAL MARTÍNEZ, *La defensa de la integridad territorial de Guayana en tiempos de Carlos III*, Caracas: Academia Nacional de la Historia, 1979, pp. 24-29; J.M. MORALES ALVÁREZ, *Los Extranjeros con Carta de Naturaleza de las Indias durante la Segunda Mitad del Siglo XVIII*, Caracas, Italgráfica, 1980, pp. 382ff.

permission to accept every Catholic foreign settler and extended this permission to other Caribbean islands like Cuba and Puerto Rico<sup>36</sup>. In 1787 the Frenchman Gabriel de Fageolles was permitted to stay at Guarico (Venezuela) because the Council of Indies considered the technical innovations of his plantation as well as the good treatment of his workers to be very useful to the province<sup>37</sup>. Populating measures were undertaken also in Louisiana and Florida, which had become Spanish, but where still lived a lot of French or British settlers. The Governors were allowed to establish foreign settlers along the frontier with the USA in order to prevent their illegal immigration and strengthen the control over the vast but nearly unpopulated Spanish domains in the North<sup>38</sup>. When French planters from Santo Domingo left their island in the 1790s due to the revolution wars, they were also welcomed on the Spanish islands<sup>39</sup>.

The usefulness of foreign settlers did not prevent the Crown from forbidding their residence if their presence was a threat to its

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<sup>36</sup> J. CHINEA, *The Control of Foreign Immigration in the Spanish-American Colonial Periphery: Puerto Rico during its Transition to Commercial Agriculture, 1765-1800*, in « Colonial Latin American Historical Review », 11 (2002), pp. 1-33, p. 21; N. BÖTTCHER, *Comerciantes británicos y el comercio interior de Cuba*, in N. BÖTTCHER, B. HAUSBERGER, A. IBARRA (eds.), *Redes y negocios globales en el mundo ibérico, siglos XVI-XVIII*, Frankfurt/M., Vervuert, 2011, pp. 207-238, p. 218.

<sup>37</sup> F. LANGUE, *Los extranjeros en el Caribe hispano en vísperas de la Independencia: enemigos, revolucionarios, héroes errantes y hombres de buena fe*, in « Cuadernos de Historia Moderna. Anejos », 10 (2011), pp. 195-222, p. 217.

<sup>38</sup> G.C. DIN, *Populating the barrera: Spanish immigration efforts in colonial Louisiana*, Lafayette, University of Louisiana Press, 2014, p. 10.

<sup>39</sup> G. DEBIEN, *Les Colons de Saint-Domingue réfugiés a Cuba (1793-1815)*, in « Revista de Indias », 13 (1954), pp. 559-605; A. Yacou, *La presencia francesa en la isla de Cuba a raíz de la revolución de Saint-Dominique (1790-1809)*, in *En torno a las Antillas hispánicas: ensayos en homenaje al profesor Paul Estrade*, edited by Archivo Histórico Insular de Fuerteventura, Paris 2004, pp. 218-232.

political or economical interests. In 1769 Manila asked for the acceptance of English, Dutch and French navigators because they were necessary for commercial shipping. Nevertheless, the Council of Indies ordered the governor of the Philippines to expel all of them. Due to the close proximity of colonies of their home countries to the island, it would have been easy for them to establish communication with their home country and spy on the Spaniards<sup>40</sup>.

The settlement of farmers, on the contrary, was less problematic as they lived far away from the coast where neither espionage nor illicit trade were to be expected. However, the appreciation of foreign knowledge and skills to develop America wasn't shared by all sectors of the colonial government. According to mercantilist beliefs, some reformers conceived America as colonies, which had to provide natural resources to Spain. They dismissed the development of manufacturing there and, thus, didn't welcome foreign technical skilled workers, if their activity enabled the American domains to be autonomous from Spanish imports. That was the reason why a request from the Irishman Tomas O'Gorman was partly denied. O'Gorman had been captain of the Irish Guards until the death of Louis XVI, and fled with his wife and three children to America to escape the Revolution. In the French Antilles he had learned about the cultivation of sugar and working with sugar mills. Now he wanted to use this knowledge in Paraguay and asked the Council of Indies for permission to build a plantation there. He also intended to call for Irish craftsmen to go to Paraguay. These craftsmen would «change the trade balance on the European markets in favour of the Spanish Crown», as the techniques he wished to introduce would surely not benefit only him, but also the whole province and its capital, because it could serve as a model for others. The response of Miguel Cayetano Soler, minister of Finance

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<sup>40</sup> AHN, Códices, L. 761, fols. 118v-120v.

and Economy (*Hacienda*), to the first minister, Mariano de Urquijo, reveals the role he assigned to the colonies. O'Gorman was allowed to settle in Paraguay and plant sugar there. He was also allowed to introduce 600 slaves, but not to bring Irish craftsmen with him. Soler had no problem with Irish settlers who were engaged in agriculture, but he did with Irish craftsmen. He wished to treat America as «an agricultural and mining area and not as one of skilled crafts and production»<sup>41</sup>. This attitude towards foreigners broke with the previous migration politics which on the one hand had rejected foreigners, but on the other accepted them if they were skilled craftsmen. Soler, on the contrary, accepted foreigners to populate America, but feared the skilled workers who could disturb his mercantilist politics.

### **Negotiating immigration: the case of José Cristóbal Oporto alias Federico Saul**

In summer 1795 revolution fear spread around the American continent<sup>42</sup>. The Mexican government was informed that French agents tried to disseminate republican and independence ideas among its American subjects<sup>43</sup>. Thus, when a strange traveller was caught by the authorities in Tehuantepeque in the Mexican province of Oaxaca, they got alerted and tried to find out who he was. His life story seemed to be quite fantastic as he declared to be called Federico Saul, being Turkish, from Constantinople, and a Muslim. He had come to Mexico moved by his strong wish to convert and become Catholic. After he was arrested in a convent, the parish priest of Tehuantepeque didn't want to handle Saul over to

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<sup>41</sup> Oficio of Miguel Cayetano Soler from 2. 7. 1799 to Mariano Luis de Urquijo. AGI, Estado, 78, n. 5.

<sup>42</sup> W.S. ROBERTSON, *France and Latin-American Independence*, Baltimore, John Hopkins Press, 1939, pp. 72-104.

<sup>43</sup> N. RANGEL, *Los precursores ideológicos de la Guerra de Independencia. 1789-1794*, vol. 1, Mexico, Talleres Gráficos de la Nación, pp. 43-57.

the government, because he thought it to be his competence to ensure that the Muslim was instructed in the Christian faith and baptised. The local government delegate, however, could finally arrest Saul and send him to the capital, Mexico. There, a special commission by the *Audiencia* under the direction of the judge Valenzuela, had been created in 1794 by viceroy Branciforte with the purpose to detect suspect foreigners and consider their expulsion<sup>44</sup>. Saul, consequently, was arrested in the royal prison to find out if it was true what he supposed to be. After a short investigation by Valenzuela a baptism record from Santiago Marfil was found on which it was stated that Saul already had been baptised in the name José Cristóbal Oporto. The Turk, thus, was Catholic, but as a foreigner he had no permission to stay in Spain's American domains<sup>45</sup>.

José Cristóbal Oporto, alias Federico Saul, now found himself in danger of being expelled from Spanish America as a foreign Catholic. As conversion wouldn't prevent the authorities from expelling him, he changed strategy in order to achieve his toleration, claiming that he was a useful foreigner. He asserted to be in possession of specialist knowledge about medical plants, to know the benefits of more than 500 of them, and to have practised as a chemist some years ago. To prove these statements he presented three fellow prisoners as witnesses who confirmed that an internal and external treatment with herbs according to the instructions of Saul cured them from long lasting grievances including painful urination, obstructions, and breathlessness with chest pain<sup>46</sup>.

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<sup>44</sup> See for the general background of the persecution of the French in Mexico in 1794 and 1795 G. TORRES PUGA, *La conspiración de 1794*, in M. GUZMÁN PÉREZ, G. SÁNCHEZ DÍAZ (eds.), *La Conspiración de Valladolid de 1809. Cultura política, actores y escenarios*, Morelia, Universidad Michoacana, 2012, pp. 21-55.

<sup>45</sup> AGI, Estado, 37, n. 32<sup>a</sup>. Sobre reos extranjeros y españoles. Testimonio del expediente formado sobre el extranjero de nación turco nombrado José Cristóbal Porto, y en su patria Federico Saul (Mexico, september 12, 1796).

<sup>46</sup> AGI, Estado, 37, n. 32<sup>a</sup>.

This circumstance was of great interest for the government which was keen to learn about plants with medicinal uses. The Crown had sponsored a botanical expedition to Mexico to gain new knowledge about its plant life<sup>47</sup>. To encourage botanical knowledge within the Viceroyalty a botanical garden was established in Mexico City in 1786 and also a Chair in botany which was occupied by Vicente Cervantes. The latter introduced the classification system of Linné in Mexico. That's why he got hard controversies with the local practitioners of botany whose practical knowledge was questioned by the systematic approach<sup>48</sup>.

Cervantes was encouraged by the government to examine the Turk to see if it was true what he supposedly knew about plants and their medicinal benefits. To ensure the medical appropriateness of Saul's knowledge, the botanist asked the above mentioned Professor of Surgery and Anatomy Manuel Antonio Moreno to join him. Saul thus was sent to the capital's new botanic garden, where Cervantes presented him a lot of plants, eager to know their benefits. Of course, the Turk labelled the plants differently from the Spanish or Latin names, but he was able to assign them a lot of so far unknown curative properties. However, soon, the botanic professor became aware that the Turk probably was an impostor because every time he presented him with the same plant twice, he invented a new name for it with new qualities. Obviously Saul had no knowledge about the classification of plants – a circumstance the professor as a defender of Linné in Mexico regarded as very dangerous because of the confusion it could lead to. He did, however, think it plausible that the Turk, as an empiricist, was able to

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<sup>47</sup> A. GONZÁLEZ BUENO, R. RODRÍGUEZ NOZAL, *Plantas americanas para la España ilustrada. Génesis, desarrollo y ocaso del proyecto español de expediciones botánicas*, Madrid, Editorial Complutense, 2000, p. 38.

<sup>48</sup> M.A. PUIG-SAMPER, *Las expediciones científicas españolas en el siglo XVIII*, Madrid, CSIC, 2011, p. 15; F.M. VÁZQUEZ, M. GUTIÉRREZ, *Análisis de la obra botánica de Vicente Cervantes*, in « Revista de Estudios Extremeños », 66 (2010), pp. 949-984, pp. 949-954.

heal because of his practical knowledge. This practical knowledge then should be adopted by the scientists in order to make it useful. Saul even claimed to be able to heal leprosy – an incurable disease as Cervantes was well aware. The professor hopefully wanted to try anything to help the unfortunates affected by this illness. He thus ordered Saul to demonstrate his ability with three volunteer lepers in the Hospital of San Lazar. However, the attempt to heal leprosy was never realised because Saul couldn't name the curative plants nor indicate where to find them. Finally he was expelled to Spain, not because of his lack of botanical knowledge, but because of his conduct: he was a drinker and, therefore, a troublemaker<sup>49</sup>.

The case of José Cristóbal Oporto, alias Federico Saul, is somehow exemplary of how the toleration of foreigners, in general, was working and which factors and agents intervened in this negotiation process. Missing integration (Saul called the attention of the authorities because he was a stranger), security reasons (fear because of the presence of French agents), religion (Saul's conversion to Christianity), usefulness (as specially skilled in botanic), competence conflicts (between the Parish priest and the local delegate of the government), humanitarian considerations (he was helped by Parish priests and his fellow prisoners) and his personal conduct (he was a drinker and lost control when he was drunk) influenced the case, in whose resolution clerics, judges, government officials, prisoners and scientists intervened. Security, religion and usefulness would have been strong arguments to decide about his toleration or expulsion. However, as by his personal conduct it seemed to the authorities that Saul was a foreign vagabond, they did what the government usually did in such cases and expelled him. He was sent to Europe with a number of French migrants who had been expelled for political reasons<sup>50</sup>. The ship which contained

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<sup>49</sup> AGI, Estado, 37, n. 32<sup>a</sup>.

<sup>50</sup> To the government's concern with vagabonds in general see A. CASAGRANDE, *Los vagabundos y la justicia de Buenos Aires durante el período tardo colonial*

the prisoners, La Ninfa, was attacked near the Spanish coast by the British and sunk. Some foreign prisoners drowned, while others reached the beach, where they escaped from their Spanish guards. What happened to Federico Saul, whether he was among the lucky ones to save himself, is unknown.

## Conclusion

The willingness to admit useful foreigners was far from clearly defined despite the fact that the Spanish Laws allowed “useful mechanical craftsmen” to be tolerated in America. Neither did the laws define exactly which jobs were to be considered “mechanical” and useful, nor did they specify what should happen to foreigners of useful but not “mechanical” professions. In most cases the government tolerated foreigners such as doctors or farmers, whose usefulness was obvious. Nevertheless, their residence caused a lot of conflicts. A potential source of conflict was competition between foreigners and their Spanish rivals as was the case, for example, with merchants and bakers. Conflicts also arose about competence. Corporations, institutions and the government watched jealously over their privileges and wanted to control the decision about usefulness and, therefore, the admission of foreigners within their jurisdiction. Finally, even if their knowledge and ability were seen as beneficial, there was still distrust towards the foreigners, whose religious, social or political conduct often caused problems with state or church institutions as well as with sections of the population.

Ultimately the decision whether or not to admit a useful foreigner to Spanish-America was result of a complex negotiation between different actors with particular and often contradictory interests. The question was dealt with by *Cabildos*, *Consulados*, guilds,

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(1785-1810), Buenos Aires, Instituto de Investigaciones de Historia del Derecho 2012.

the government, *vecinos* (citizens) and, of course, the foreigners who tried to achieve toleration in the Indies. His usefulness was only one and maybe not the decisive criterion within this negotiation, which also was influenced by security concerns, competence conflicts, competition and economic considerations, humanitarian aspects or religious and social behaviour.

So, although usefulness converted a foreigner into a “good migrant”, their toleration in the Indies was not necessarily granted. On the other hand, also “bad migrants” were not automatically expelled. Moreover, although there were a lot of complaints against the residence of foreigners in America, and many Spaniards denounced their foreign competitors before the government, there were nearly no expulsions of foreigners. One reason for this toleration was what Tamar Herzog has described as the general acceptance of those foreigners in Spanish-America who wished to live with their Spanish *vecinos* (neighbours) and indeed did so. Another reason can be found in the population theory of the Enlightenment, which linked the wealth of a nation to the size of its useful population. During the second half of 18<sup>th</sup> Century, when this theory was also widely accepted within the Spanish government, the expulsion of foreigners may have been seen pernicious to the interests of Spain, if these foreigners were conceived as useful. The third reason for the toleration of useful foreigners lay in the judicial system of colonial Spain. Expulsions could be prevented by the simple act of applying against them in Court. Usefulness was a strong argument within the legal system against an expulsion decree. Even if the Courts did not grant a foreigner the status of usefulness, the juridical procedure to decide the case took so much time that sometimes the foreigner who had been expelled could go on living in Spanish-America for quite a long time.

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