Social control is a multifaceted concept. As an apparently neutral term, it covers all social processes that induce conformity, from infant socialization down to public execution. Roughly speaking, social control requires that a deviant form of behavior is transformed into tolerable conduct. In its turn, deviant behavior comprises individual or collective immorality, weakness, sickness, and deficient or perverse attitudes, all of which may or may not be categorized as illegal behavior or crime. The reaction to deviant behavior can be punishment, reform, defense, segregation, rehabilitation, prevention, treatment, or even assault. Social control is facilitated (or sometimes inhibited) not only by norms, the law, and social tolerance but also by emotions such as revenge, compassion, and benevolence—passions that were felt equally by specialized controllers such as judges, policemen, teachers, social workers, criminologists, sociologists, psychiatrists, aldermen, the president of a university or country, the national government, as by nonspecialists such as the father of a household, neighbors, and kin. The objects of social control were deviant people, that is, people who were considered social monsters, outsiders, dangerous criminals, rebels, lunatics, beggars, or other individuals disobedient to law, custom, authority, local norms, or family values. Anyone can become a social deviant. The discourse of social control is extremely broad ranging, since it includes labor discipline, schooling, teacher’s authority, prisons and imprisonment, police tasks, paternal correction of children, and patriarchal authority in general.

In 1977, Michel Foucault explained that power is constituted neither by individual nor by collective purposes or interests. Although power has links with economics, politics, and culture, it is also self-generating, because political practices are the result of coordinating and giving sense and direction to individuals, social groups, and institutional forces. Social control was part of these power relationships with two basic directions: from above (from the political arena and
elite culture) and from below (from social forces and popular culture). I am concentrating here on the settlement of everyday disputes in early modern Spain by informal means or sometimes by semiformal ones, making use of institutions. In fact, as I will explain, more than half of the lawsuits in all courts together ended with an agreement out of court. This occurred most frequently in the Crown tribunals, where about three-fourths of the cases in the lowest courts ended with an extrajudicial settlement. The Church courts, however, left less than a fourth of their cases without a sentence. This difference between Crown and Church courts is due to the types of crime handled by each of them. Church courts might deal with homicide if the victim was a priest or a nun, but a large part of their business concerned sexual affairs. In those cases a sentence usually was the end of the story, because that was the result the parties were after. The judge would decide whether a promise of marriage had been broken and the guilty party had to pay compensation; he granted or denied the request for a couple’s separation; he decided whether a case concerned adultery, simple fornication, rape, or homosexuality. In the eyes of the Church, all such affairs had to be solved clearly, and this could be done only by means of a judicial sentence.2

Early modern Spaniards were increasingly keen on going to court to negotiate their disputes. In the seventeenth and eighteenth centuries, Castilians increasingly took their everyday disputes to the local judge, instead of bringing them before a higher court as they had usually done before. This process of devolution of jurisdiction from the highest to the lowest courts also had further effects.3 The highest courts used to resolve every case with a sentence, whereas local judges usually ended a case without a sentence. The rule was discussion in court and resolution out of court. The judge and the judicial procedure were merely the vehicle that every party used to negotiate an acceptable solution. In that sense, there was also a devolution of jurisdiction from judicial administration to social forces, both groups and individuals. That is the reason why I focus this article on popular social control and arbitration of disputes.

In early modern times, every corporate structure of Spanish society and every sphere of sociability was an arena of social control. From the basic community—the household—to the commonwealth, there existed a hierarchy of domains of social control. Viewed from the perspective of several centuries, it is apparent that interaction between all these spheres provoked general changes in social as well as power structures. Both sides of the problem—social control within every social sphere on the one hand, and on the other hand, the more general processes of change—will be discussed in this article. First, I explain that paternalism formed the main base of social control in early modern Spain. The second subject is family discipline. Third, I discuss social control within the neighborhood. I then outline the popular lexicon of social control, and finally I present some ideas on the nature of the dialogue between community intolerance and royal pardon.
Paternalism: An Ideology of Social Control

Anthropologists have found large patriarchal kinship groups in the Mediterranean area, although they also describe the various routes of a common historical process whereby conjugal families took the place of large family groups. Patriarchy refers to a social organization in which authority was concentrated in the hands of male chiefs of a family or kinship group. With a cross-cultural focus, patriarchy can even be seen as a universal category. It had its own peculiar features, however, in Mediterranean Europe.

The major political thinkers of early modern Spain legitimized patriarchal authority as a principle of social order and social control. In their eyes, the basic social sphere was the household, ruled by the father. The art of a good paternal government was the so-called oeconomica. The kingdom was viewed as a large household or a great polis, where the king was the father of all and ruled according to politica or ars guvernativa. Even at the end of the eighteenth century, the king frequently asked his provincial and urban chief magistrates to settle judicial cases in conformity with patriarchal principles. According to the philosophers, there were complementary levels of social control in every sphere of sociability: self-control (etica), the authority of the pater familias at home (oeconomica), and the king’s government (politica). The Spanish judge Castillo Bovadilla explained it clearly at the end of the sixteenth century. His arguments were political but also theological: “there are many levels of legitimate authority and dominion. Every one of them has its own limits: the son has to respect the father, the wife her husband, the citizen his or her urban magistrate and the latter has to obey the prince. . . . The first apostles preached in favor of those principles of legitimate authority.” This view was not unique to Spain, nor was it confined to the early modern period. Nevertheless, such ideas underlay all major political affairs in early modern Spain.

As late as 1800 Fr. Miguel de Santander, although associated with the Enlightenment, explained in one of his sermons that “the first obligation of the children to their parents is love and obedience and the second is to help and honor them.” Also, his view of the social order self-evidently included “what the obligations of the children towards their parents are, and how married women relate to their husbands, pupils towards their teachers, servants towards their masters, parishioners towards their priest and the subjects towards their king.” Reversals of that scheme and order were considered unnatural facts. Indeed, married women who dominated at home gave the neighbors a good reason to play cencerrada (rough music or skimmington). Every member of the household should be under the authority of the father-and-husband. In his turn, he should govern his home in a fair, prudent, and tolerant manner, which meant he was even expected to take into account the opinions of his wife.

Paternalism was the ideology of the household, but it extended well beyond that sphere. Due to such reasoning, matrimony was at the very center of the moral
and political debate, and when moralists paid attention to matrimony, they basically thought of authority. Matrimony should be a relationship characterized by a perfect friendship between wife and husband, but every husband should have his wife under control as a minor under tutelage, because women were inferior to their husbands. Their lives were centered on domestic tasks, obedience to their husbands, farming, cooking, sewing, sweeping, scrubbing—in short, “they should be patient in suffering their husband’s authority, loving mothers of their children, kind neighbors in their community and prudent in affairs of honor.” The perfect married woman was “a good and honest companion” to her husband.8 The first set of characteristics implied an inequality in the relationship of wife to husband. The last characteristics, however, pointed, if not at conjugal equality, at least at a sense of partnership. This notion of partnership was not only in the mind of sixteenth-century moralists and theorists. In the seventeenth and eighteenth centuries, these precepts had been appropriated by ordinary people. As late as 1802, a prosecutor in a trial for conjugal homicide in the small northern Spanish judicial district of Alfoz de Lloredo explained about a violent husband: “I will never be able to say how extreme the tyrannical despotism was that the accused acted out toward the victim of his violence [his wife] ... Every husband should be a partner of his wife instead of her lord. His authority is limited by prudence and moderation. His conduct must be according to the precept of the apostle of Ephesus [according to St. Paul, every Christian should love his wife as Christ loved his Church: he gave his life for his Church].”9

Penal law as well as the writings of the moralists contributed to upholding paternalism. However, the criteria which distinguish virtuous from bad government at home were set by the neighborhood. It had the last word about the limits of authority of the pater familias. The neighbors’ advice, gossip, and public rumor, even individual suggestions of qualified members of the community such as a relative, a parish priest, or a member of a respected family, were instruments to delineate the border between licit and illicit male government. Paternalism articulated order in the household and every sphere of sociability. However, the principles of mutualism and communalism were also at work within every family, social corps, and community. Paternalism legitimated patriarchal government rooted in prudence, tolerance, fidelity, and loyalty among those with an interest in social peace in the household and outside it. Obviously, sometimes paternalism did not suffice to avoid violence within the household and in the community, since about 4 percent of all criminal cases and 15 percent of assaults concerned conjugal violence.10 Of course, these figures refer merely to marital violence registered in judicial archives, but they constitute a good sample, because they concerned the cases in which marital violence was rejected both by the neighborhood and the court.

In the last resort, the neighborhood’s intolerance of aggressive males defined the border between prudent paternal authority and tyrannical patriarchy. This
was also the border between scandalous behavior and tolerated behavior. In early modern Spain, scandal was an effect of “vile and reprehensible” conduct that had three main components. First, it constituted behavior transgressing the common customary ideals of social harmony and order; second, it was publicly considered social deviance; last, it set a negative example to the rest of the community. Spanish moralists of the eighteenth century emphasized the third of these features. This was the landmark between social tolerance and intolerance toward violence.

The household formed part of the kinship group and the kinship group formed part of the neighborhood, which in turn formed part of a wider rural community or an urban district. This district belonged to a city, which lay in a kingdom. Spain as a whole—the Crown’s rule—consisted of several kingdoms, each with its own political traditions and law. Paternalism was a major force at all these levels, from the household to the Crown. It was not only an ideology to keep order, peace, government, and hierarchy within the family, but also within these wider social and political spheres.

Family Types and Family Discipline

Family structures influenced the way in which family discipline could establish order and harmony and organize mutualism within the group. The Spanish Old Regime knew several family models. We can distinguish them by taking into account the location of the married couple and the inheritance system. According to these parameters, three large areas are visible: first, the northern Atlantic coast; second, interior Castile, Andalucía, and the Mediterranean coast except Cataluña, and third Cataluña and the north of Aragón. In the first region the stem family was the rule, but women could inherit; sometimes the dowry was their part of the inheritance. On the Atlantic coast there also existed some restrictions to nuptiality, while rates of fecundity and mortality were not high. In the second area the nuclear family was predominant and matrimony was a nearly universal option. Women as well as men married at a younger age than in the rest of the country, and rates of births and mortality were higher. In Cataluña and the north of Aragón, women married at a younger age than men, and the typical family was strongly dominated by the father’s lineage. Despite these peculiarities the three Spanish areas shared the general characteristics of the so-called western European family.

Urban and rural factors also had an influence on family patterns, relationships, and discipline. Urban areas attracted rural emigrants. In the cities, mortality and natal rates were unbalanced in favor of the first, due to a greater share of single people such as soldiers, clergymen, students, servants, and prostitutes. As elsewhere in Europe, Spanish cities were great “people eating monsters.” Moreover,
in Spain those urban characteristics already applied to places with more than two thousand inhabitants, particularly on the north Atlantic coast. This factor, together with other social features, affected family structure and organization. The highest aristocratic families intermarried and met each other in Madrid, sharing court life and culture. Yet, those noble families had their principal houses, emblems, and land in small Castilian towns. Urban culture radiated from those towns to the countryside. In these small urban places both the Crown and the Catholic Church had located their institutions: schools, law courts, and convents of mission preachers. Life cycles also affected family patterns. The domestic economy was most favorable when the children still contributed to it, before they married and left home. For each household, this was the golden period, enabling it at times to receive and help needy and old relatives as new members. This situation did not basically change when the Old Regime ended.

Next to the general characteristics, every social group had a specific family structure. A first contrast was between noble and bourgeois families. The noble family was strongly centered on one of its male members, who had formal authority within the kinship group. The bourgeois family usually was nuclear, although it employed domestic servants quite frequently. Nobles and bourgeois developed similar marriage strategies. Social endogamy knew several versions, but it was always practiced to avoid division of the patrimony as well as to reinforce mutual aid and solidarity. The primogeniture system and social endogamy of the nobility tended to concentrate various portions of the inheritance in the hands of the same individual. All this strongly facilitated the social reproduction of the group. Bourgeois families did not usually favor primogeniture, but they practiced social and professional endogamy or they tried to marry into noble lineages. The elite of the northern Spanish commercial city of Santander adhered to professional endogamy, even extending their matrimonial strategies to Bilbao, Burgos, Palencia, Cádiz, and several places in America. Their marriage links followed the same routes as their trade. The southern Mediterranean city of Cartagena had an important commercial and military harbor. In this city the richest merchants were foreigners, who practiced a type of endogamy that mainly took into account the national origin of the spouses. This sort of national endogamy was particularly strong among the group of Genoese merchants who made up the urban oligarchy.

Noble families knew a strong mixture of authority, hierarchy, and discipline. Institutions like the primogeniture inheritance system (mayorazgo) reinforced a rigid family structure dominated by the oldest male. He even had the authority to decide on the life options of other family members. He negotiated about buying and selling land as well as who was to marry whom. During the eighteenth century this situation slowly changed. Increasingly, family members who had been excluded from the inheritance in the primogeniture system came to occupy a more important position within the kinship group or parentela. They acted as
brokers of a kind within that group. They donated money to the primogeniture but for the benefit of family investments, to help pay for the education of relatives and, sometimes, to start colonial trade enterprises or even to raise women’s dowries, so that they could obtain a better marriage. The brokers’ activities created a mutual link of solidarity under their control. Although this change did not imply a total transformation of the family group, it was slightly and slowly diluting the power hierarchy within the family. In the second half of the eighteenth century, elite families still were engaged in a common enterprise to realize common goals, but they were no longer so clearly led by the oldest male.

Peasant families shared some characteristics with their social superiors. Here, too, members worked together to overcome the worst adversities and to protect the family honor. They offered each other help with building a house or making repairs, emigrating, getting out of prison, and attenuating the negative effects of a disease or physical incapacity. The father or the oldest brother usually had a measure of authority over the group of brothers and sisters, even when they were already married. However, his authority was not as strong as that of the noble family chief. The emigrant who sent money from America to help his relatives with necessities won some influence because of this. An organized way to secure mutual support consisted of the so-called company (compañía de uso), set up by a group of relatives from different households with the aim of pooling their inheritances instead of dividing them into parts. Everyone shared the profits and risks of the company, which fostered mutual solidarity. In the Aragonese Pyrenees and northern Cataluña, however, such affairs were subject to a family council, which meant that many domestic decisions were taken under the influence of the husband’s and wife’s relatives. Family councils still operated in these regions at the beginning of the twentieth century, when they had become extinct in other parts of Spain. Less organized forms of mutual aid, however, were maintained in most of Spain at least until the end of the nineteenth century.

From the discipline as well as the mutual support, as practiced in early modern Spain, we can deduce how the family was conceived by its members. In the narrowest sense, “family” referred to the group of blood relatives living together in a household (casa). But the notion of family could further extend to include the group of bilateral relatives who were contemporaries and kept in touch with each other (parentela). This means that even though biological factors helped make a family, it was constituted primarily because people wanted to be members of a group. Emigrants had this notion of family in mind when they picked some of their relatives to correspond with. Those asking their relatives for help or to be assisted by them when they were in need had a similar idea of family. A set of relatives also partook of every family commemoration—baptisms, weddings, and funerals—and they were active as well when a person needed other members of the kinship group to protect his or her honor. These conceptions of the family, wider than the nuclear family, the domestic community, and the
household or casa, stood at the very center of the moralists’ and political thinkers’ critical writings. They stressed patriarchy as the guarantee of social peace and order, focusing their discourses on the household.

As already explained, it was the family of experience that had the greatest meaning in everyday social practice. Nevertheless, family discipline and solidarity linked every member of the family within the entire group to attain common goals. One of those was harmony within the group and loyalty to their common strategies to deal with everyday affairs. Family discipline was in favor of common and mutual support and defense against every possible external damage and risk. The family honor reinforced that sense of unity, at least up to the late-eighteenth century. That is why honor stood in the very center of family affairs. For example, in the eighteenth century still, the family group organized assaults (pendencias) against those who had offended family honor, in order to have it restored. This was done even by members of the popular classes. Social control within the Spanish early modern family was a result of different forces and projects but, in general, was accepted by family members and was developed according to common aims.

Life Cycles, Community, Gift Economy, and Social Control

The life cycles of peasants and fishermen converged on many points, although there were some differences. Childhood, up to eleven or twelve years old, was a period of instruction. Instruction meant not only schooling but also education about customs, social conventions, and relationships. Young people had to start working soon, to contribute to the household economy. The second phase, youth, began around twelve years and lasted until twenty-four or twenty-five. In this period, men either got further education or started working outside the household. Men from the Atlantic coast in the north began to take part in seasonal migrations to Castile, the court of Madrid, Andalucía, or America. People looking for a better chance in life or wanting to emigrate to America flocked to the ports of Seville and Cádiz. Young fishermen’s sons enlisted as ships’ boys at the age of eleven and, slowly, they learned everything they needed to ensure a profitable future as a fisherman. Next, they practiced coast fishing, and when they had more experience, they participated in deep-sea fishing. Peasants’ as well as fishermen’s sons, and even the sons of poor artisans, had the additional option of entering well-to-do households as domestic servants. Family ties with wealthy people or any other personal link facilitated this option. Such a first contact with employment created a bond of personal dependence with the master. Under these circumstances, once more, paternalism functioned as an ideology of social control. Apprentices were tied to their masters, servants to household heads, ships’ boys to skippers, as if they formed an artificial family under the
fathers’ rule. The transition from this phase of the life cycle to the next depended on three main factors associated with one another: age, economic position, and marriage.

The possession of some land or cattle or the ability to rent it or having the tools to start a career as a craftsman helped in obtaining a good marriage. In general, the lower the man’s economic status, the more modest his marital prospects. Fishermen married when their earnings became more regular and predictable. This usually happened when the fisherman became a skipper. The word skipper did not necessarily refer to the owner of a ship. Frequently, he took part in a company with others. In these companies, both the skipper and the ship owner shared risks and profits. Such an arrangement gave the skipper some stability of income, but a fisherman’s life never was wholly stable. Because of this, probably, fishermen very often owned some land as well. If their projects went well, the fisherman, and even the coast-fishing skipper, took part in deep-sea fishing, thereby improving their earnings. Urban artisans had a chance to get married when their apprenticeships ended, although they were still subject to the master and the guild rule. When a young couple had children, they faced a real risk of impoverishment. Then, the increasing expenditure put the domestic budget to a test.

Only when a peasant, artisan, or fisherman was over forty years old, did the household economy really improve. By that time, the children had started their own labor career. Then a mere sharecropper could become a small land or cattle owner, and the fisherman had a chance to acquire his own ship or the artisan his own workshop. Slowly, the domestic economy improved, enabling the father to provide his sisters and daughters with good dowries and to help his sons attain greater professional stability. If these activities were successful, they raised the prospects for the children’s future family alliances. Next to this, they provided the father with the authority to have a say in his relatives’ personal decisions. When the children left the parental home, the household might take care of the husband’s or the wife’s parents, if they were in need. This was the prelude to their own old age, when personal need increased and individual capacities to face it decreased.

In these circumstances, peasants, artisans, and fishermen, apart from relying on family assistance, had the opportunity to receive complementary community aid from social institutions like confraternities and guilds. Such institutions, present in towns as well as villages, usually had ordinances regulating their structure of authority and internal corporate culture. The ordinances of guilds as well as confraternities dealt with a broad range of activities, including mutual help, the moral behavior of members, and religious practice, in particular the devotion to the institution’s patron saint. Furthermore, they usually obliged members to subject conflicts among them to internal arbitration, avoiding the Crown courts. All these prescriptions date back to the Middle Ages, but they
were still valid at the end of the eighteenth century and in some cases even later, in spite of an attack from the enlightened administrations of the 1770s.23

Municipal relief and semiformal institutions that contributed to public order, such as guilds and confraternities, were complementary to family and neighborhood discipline. Guilds and confraternities were internally structured as a large family. As a rule, someone was appointed as the head of the corporate body, usually with a few members of the confraternity to assist him. The head arbitrated disputes between members of the institution, even in cases of adultery or physical assault. Every member of a confraternity was expected to submit a case to those arbitrators instead of taking it to the Crown court. The confraternity's peacemakers negotiated between the parties to avert a public scandal, and their settlement was supposed to be reached “with equity, fairness and Christianity.”24

In the lives of peasants, small craftsmen, and fishermen, economic risks and insecurity were an ever present reality. That is the reason why they cherished family ties and relied on mutual assistance in the form of communal institutions like confraternities and guilds. Family and community solidarity and cooperative institutions supplemented each other. They implied different versions of the gift economy. According to Marcel Mauss, the donation of a gift established a bond between the donor and the receiver. With the gift, the donor presented to the receiver a part of the donor's personality. This meant that the gift also gave the donor a measure of power over the receiver, because the latter was left with a retributive obligation toward the donor.25 Ethical values were central to gift giving. A gift economy contributed to overcoming social tensions, conflict, and interpersonal violence. Somehow, the exchange of gifts brought civilization, because it led people to surrender to each other instead of fighting. The Spanish early modern gift economy, however, was unlike the one Mauss describes, when the receiver transmitted the gift to a third person. In that case, this person had no retributive obligation toward the original donor. Anyway, all these exchanges required the fidelity of the parties to the bond that the gift created between them. This happened not only among the lower social groups but also among the nobility. Nobles, too, felt the need for a gift economy and for mutual fidelity, in order to maintain family discipline, exercise marriage strategies, and uphold the primogeniture system—in short, to ensure their social reproduction as an elite group. Of course, these activities were unsuccessful at times and provoked conflict between relatives, ending up in court.

Personal characteristics made the provision of community support either smoother or more difficult. A violent temper, alcoholism, offensive or rude behavior, insults, and outward signs of shameful disease (venereal in particular) could obstruct the family and community aid to the needy. This gives us a compelling view of the prejudices prevalent in popular culture, founded on the archetypes of the good neighbor and the bad neighbor. The community canalized the gift economy in many ways, through confraternities, guilds, parishes, and more spontaneous social
organizations in urban districts. These social institutions took care of people in cases where the family could not. The neighborhood also assisted persons in need while they received family aid as well. A mad person or an alcoholic could be cared for by his or her family group, but the latter needed the tacit consent of the community to develop an effective aid because the community operated by the fabrication of a common ethic that condemned buying things from the insane or serving them wine or another alcoholic drink in a tavern. Such norms clearly show how social control operated at the community level, in conjunction with the gift economy.

Mutual aid among relatives was based not only on love, loyalty, solidarity, and fidelity between donor and receiver but also on self-interest. Many times the donor was motivated by the retributive dimension of the gift economy, and quite often the retribution was specified on paper. Food, clothing, and other basic necessities were given to and tasks performed in the home of old, mad, or disabled people in exchange for their inheritance. In this way, the receiver of assistance became a donor of his or her total belongings. Such an exchange did not amount to a gift economy in the proper sense, because a clear material interest was involved. Perhaps that is why Castilian law called these deals an improper gift (donación impropia), because it concerned an economic exchange rather than a real donation.

In all the spheres just discussed—family, community, the gift economy, and social control—there were changes over time (figure 1). This is indicated by such
factors as impoverishment of the population, the frequency of litigation within
the family, and the vicissitudes of community solidarity. As a good indicator exists
for each of these three factors, I am drawing the related arguments together in
one discussion. The rate of impoverishment of the population is measured by
considering the number of people buried at parish expense. Their names were
inserted in the registers of deceased persons (libros de finados) that priests were
required to keep according to the decrees of the Council of Trent. The second
factor, family conflict, allows us a view of situations when family ties were put
to a test. Probably the most sensitive family affairs were inheritance matters. Therefore,
the incidence of inheritance disputes at the quarter sessions of the court is a good
statistical indicator. The level of community solidarity, finally, is indicated by
the annual number of new members in the registers of religious confraternities.
These numbers, of course, have to be adjusted for increases or decreases in the
population.

The paucity of local studies makes it difficult to get a general idea on the sit-
uation in the kingdom of Castile. Cantabria, not quite urbanized and not totally
rural either, was probably representative of the overall Castilian average. In any
case, it was highly representative for the northern Atlantic coast. The popula-
tion of Cantabria slightly increased between 1591 and 1752, more sharply between
1752 and 1787, and at an even faster pace up to 1822. During the second period
of the graph, the rates of impoverishment were much lower than in the first, hav-
ing dropped from a number ten times above the population rates to underneath
them. At the turn of the eighteenth century, however, impoverishment
increased again over the population statistics. This means that, from the mid-
eighteenth century until the beginning of the nineteenth (including years of extreme
poverty around 1800), the gift economy was put to a test. In those circumstances,
did conflict or mutual help prevail in family and community relationships?

Inheritance disputes were very frequent over the whole period, but nevertheless
they underwent a slight downward trend from the early-seventeenth century to
the beginning of the nineteenth. This downward trend continued when the increase
in impoverishment rates was higher than the increase in population. This means
that family cohesion was more important than family conflict even in the worst
circumstances. What about community assistance? The annual entry rates of new
members in religious confraternities were extremely sensitive to the rise of impov-
erishment. When the increase in population was higher than the increase in impov-
erishment, many fewer new members entered a confraternity. By contrast, the
higher the rates of impoverishment were over the population, the more new entries
into confraternities we observe. This happened, for instance, in the last two decades
of the seventeenth century and again at the turn of the eighteenth century.

The decrease in lawsuits concerning inheritance disputes in spite of the
impoverishment of the population and, by contrast, the obvious sensitivity of the
confraternities to increases in poverty clarify many points in our discussion. First,
these trends confirm my claim that strong bonds of mutual assistance existed among relatives. These bonds constituted an essential but intangible patrimony, with the capacity to prevent adversity from striking too hard. In addition, people were very confident about receiving community aid to overcome periods of extreme economic difficulty. These trends make it easy to understand why relatives and neighbors drew up formal agreements specifying their gift exchange and social control. A bad neighbor or a scandalous member of a family and the community easily fell prey to adversity, because such a person was deprived of all mechanisms of communal and mutual aid. Communal social control existed in every urban quarter and rural hamlet. It operated not only to either withheld or facilitate mutual assistance and gift giving but also to ensure social order, harmony, and peace. This is why we can speak of social control from below and popular arbitration of disputes, even when the latter had already been taken to court. Social control in the sphere of family and community had its own lexicon.

The Popular Political Lexicon and Social Control from Below

Expressions like representation, usurpation, abuse of authority (desviación de poder), sedition, fidelity, and even honor were common among the popular classes when they complained about the damage done by individuals and institutions—including the Crown—with respect to the use of common land or the violation of customs, urban privileges, or the liberties of guilds and confraternities. These concepts were voiced in many local political discussions, struggles, and revolts, as well as in the agreements that ended them. Together, they made up the basic popular lexicon of social control. They provide clues to the character of the political culture of the common people. This political culture legitimated social control from below, in the form of resistance to what was felt as a usurpation of the customary rights of a rural community, an urban quarter, a guild, a confraternity, a town, or even one of the kingdoms of the Spanish Crown.

Honor was a sensitive issue in social relationships, certainly before the mid-eighteenth century. When a man was assured of the loyalty of a family and furthered its aims, he was the head of his parentela, which had an honor of its own that ought to be protected by common action. If that individual then managed to obtain the loyalty of persons other than kin, he acquired the position of faction leader or head of a clientela. A cacique (local ruler) frequently used these types of personal ties for his own benefit. Although the fidelity of the neighbors was concentrated on this chieftain, a permanent competition went on among social factions, each striving to control the others. The local chieftains were a feature of small communities in particular, although they could be found in urban areas as well. Because the Spanish monarchy consisted of several kingdoms with
different legal and customary systems, the caciques sometimes presented themselves as defenders of local autonomy, common law, and tradition. What they primarily sought, however, was the furtherance of their own interests and that of their social factions. Thus, in the kingdom of Valencia in the first half of the seventeenth century, parish priests, protected by the bishop, led the opposition against the social faction that represented royal interests. As a social faction themselves, those priests were connected to local chieftains, members of the same parentela or clientela. To defend local autonomy, custom, laws, and ancient privileges as well as the interest of local chieftains, the priests protected criminals and sponsored violence and other crimes against the viceroy, his administrative servants, and social supporters. The viceroy's problems were not solved until 1648, when a new bishop arrived in Valencia and the king successfully requested the Pope to restrain the rebellious priests.27

Rural caciques controlled local services such as justice, administration, the supply of goods, and the labor market. Sometimes they owned or managed local workshops and foundries. Until the middle of the eighteenth century, lower officials of the Inquisition (familiares and comisarios) also acted as local caciques. In that period, caciques were able to organize large factions, every member of which had personal ties of obligation toward them. They acted as patrons, distributing favors to their clients. This scheme worked very well in rural peripheral areas of the kingdom such as the Basque country, Navarra, Cantabria, and Galicia.28 Sometimes the local chieftain was responsible for maintaining the community’s honor and furthering its aims. If he did so, he was able to rally the community behind him and to get common proposals accepted. Some caciques, however, exceeded the bounds of community tolerance. They were considered usurpers, because they had appropriated goods and rights from other individuals or from common property. In such cases, the community wished to instruct, discipline, and control its cacique.

Representation was realized when someone voiced the complaints of a faction (clientela), kinship group (parentela), a community, or any other institution or social group. In several riots and social struggles, one individual or a small group took the initiative in representing the entire community. A famous example is the case of El Encubierto (the Hidden Man) during the revolt of the Germanías of Valencia against the emperor Charles V in 1519–1521, but it happened also during events of a lesser magnitude. El Encubierto was a product of several circumstances, in particular the social convulsion after the plague in the summer of 1519, the flight of several aldermen and members of the nobility from the city of Valencia, fears of an upcoming Moorish invasion, and a more realistic concern for the activities of Moorish pirates in the coastal areas. Next, apocalyptic sermons of wandering preachers, who prophesied an invasion from Africa, heightened the public commotion, leading to the first outbreak of revolt on August 7, 1519. This was followed by a harsh repression, to which the craft
guilds reacted by joining together in a *germania* (fraternity). El Encubierto was the embodiment of all those forces. He was finally captured, tried, and decapitated in March 1522, but his fame outlasted him for at least twenty years. This mythical hero was reborn several times and imprisoned and punished again, until 1541 when the last Encubierto stood trial. By that time, the movement associated with his name still stood for community ideals of the common good.

A comparable event took place in 1782 in a quite peripheral part of the kingdom of Castile, the valley of Soba in Cantabria. When two hundred inhabitants of the valley including a few aldermen revolted, they elected from their midst Nicolás Corral as the chief magistrate of the jurisdiction, replacing Manuel de la Puente who had been appointed by the duke of Frías. Soon, however, the duke managed to remove Corral. For a brief time, Nicolás Corral had represented the community’s ideas of justice and good government. Many people considered De la Puente a corrupt tyrant, who extorted money from prisoners in exchange for their freedom and who requested sexual favors from young girls who came to assist their imprisoned relatives. Sometimes he even threatened these young girls when they resisted his advances. This man had been criticized by the community for years, but nobody felt strong enough to oppose him and put an end to his offensive behavior until the revolt of 1782.

As different as the times and circumstances were, both El Encubierto and Nicolás Corral had been designated as their representative by rioters and rebels in the midst of social revolt. They had been selected by way of an extraordinary procedure from the bottom up, not according to law and custom. In the eyes of the country’s rulers, this constituted deviant use of authority, part of the more general concept of usurpation. The rioters had usurped the Crown’s and the duke’s authority. These two incidents were cases of sedition, according to the law, because they implied a rejection of legal authority. The punishment for sedition was death and confiscation of half of the criminal’s property. From the early-sixteenth century on, defendants were charged with sedition even when they had killed, assaulted, obstructed, or resisted a royal representative. A Castilian law of 1566 allowed the Council of Castile to commute capital punishment in public whipping and long-term galley servitude. After the 1766 riots in Madrid, two new laws (1766 and 1774) aggravated the penalty again, but actual practice remained more or less the same. The judges knew how complex social solidarity was in every conflict, and they refrained from imposing rigorous punishments. Indeed, the judicial sentence after the riot of 1782 was milder than the full rigor of the law would prescribe. Nicolás Corral was merely forbidden from ever assuming the function of chief magistrate of his district.

Deviant use of authority, then, referred to any illicit presumption of authority by people who did not possess a well-founded right in this respect. Daily life regularly produced circumstances perceived as usurpation or causing damage, to which neighbors reacted. This early modern society witnessed a permanently
hazardous balance of forces and tensions. Violence not only led to usurpations and conflict but was also the cause of its resolution. Frequently, popular social control—in the form of gossip, rumors, advice from neighbors or relatives, or suggestions made by the peacemakers of a confraternity or guild—served to establish a new balance of tensions. Sometimes, the court took part as well. In that case, the court was the arena in which the parties negotiated and the judge served as a qualified mediator to find a resolution of the dispute. During the proceedings, every party used the lawsuit and the court in an effort to improve its position over the other. A solution was usually reached out of court, through a private agreement between the parties, in exceptional cases written down by a public notary.

As a result of this mechanism, not only the court and the law but also self-control and family and community discipline—sometimes within the household and very often within social institutions such as guilds or confraternities—provided early modern Spaniards with many options for dealing with daily disputes according to common customs. Thus, there was a vast intermediate area between extremes such as the kinbut in Scotland, the Finnish blood feud, and the Friulian vendetta and, on the contrary, the peaceful, well-ordered, and disciplined society, controlled by judicial institutions and the penal law, sought by the monarchy. This intermediate area constituted a broad framework with quite diverse instruments and values to arbitrate disputes, which shows us what social control meant in this society. Popular culture and social control from below were the main ingredients in the solution of everyday problems, conflict, and crime in early modern Spain. However, social control could also provoke social discrimination.

The King’s Paternalism versus Community Intolerance

Community values, rooted in popular culture and custom, often guaranteed social control and peace; however, sometimes, they produced intolerance aimed at people whom the community disapproved of. In such cases, the king’s paternalism could be the outsider’s rescue, ensuring a return into social life. This concerned one of the most fundamental royal prerogatives. Only the king had the right to pardon even the worst criminals, as a corollary to his paternal authority over every subject. What happened to María González in the four months between September and December of 1630 in the town of Molina de Aragón constitutes an excellent specimen of the dialogue between popular and official justice, particularly with reference to deviance and social control.

The fate awaiting María González was the same as that of other persons who were banished, for several years or for life, from their village, town, kingdom, or the entire territory of the Spanish Crown. Every prostitute, quarrelsome neigh-
bor, or beggar faced that risk. It is not necessary to explain here what banishment meant in those days: a loss of family and community identity and exclusion from the gift economy. Prostitutes, in particular, suffered from all prejudices that existed in a society based on patriarchal values. For all these reasons, María González’s case is typical of every case in which the community’s discrimination turned against a social deviant.

María González was tried in September 1630, condemned to a banishment of two years from her town in October, and pardoned by the king toward the end of the year. Before and after the royal pardon, María’s neighbors rejected her and her husband and friends because of her lifestyle as a prostitute. Despite this, the pardon meant that the neighborhood and the entire town had to accept María and her husband and friends again. In fact, María and her friend and next-door neighbor Elvira de Espinosa, also a prostitute, had been in jail in Molina de Aragón more often. On several earlier occasions, while they were living with their husbands in the Calle de los Escuderos, María and Elvira had been prosecuted by the urban judge. Then their husbands already knew very well that they practiced prostitution, but they were not concerned at all about this. The husband’s consent to his wife’s prostitution was something the community always criticized. María and Elvira even received clients when their husbands were at home and clearly saw what was going on. This fact was known by the neighbors, provoking a public scandal.

María and Elvira were considered imprudent; they “didn’t have God in their minds.” María told several of her neighbors that “she would always live as she wanted to” and once she told one of them: “What do you want me to do? My husband is so lazy that if I wish to eat every day, I have to earn my living with my body.” María and Elvira both received their clients at any time, day or night. Elvira also caused a scandal by often using “awful and dishonest words,” often screaming at home and in the streets. María had two young girls in her home. She claimed they were domestic servants, but nobody believed it. The clients, usually strangers to the neighborhood, came to see all these women. Afterward, the clients paraded through the neighborhood, and sometimes they had lunch and drinks together with the women and their husbands, which lasted until they were completely drunk. Most of the neighbors felt very offended. In their opinion, these activities damaged the neighborhood. One of them, Juan Núñez, who lived just opposite to María and Elvira, explained that he and his wife refused to look through their window, because they did not want to see the scandalous way of life of their neighbors. Gerónimo Vela and his wife even locked the doors of their house. They did not want to hear what the prostitutes, husbands, and clients told each other. Núñez was furious because Elvira and María had been sentenced to banishment several times before, but these sentences had never been executed. Núñez said he contemplated moving to another district of the town. Several other neighbors in los Escuderos professed the same intention.
Gossip magnified every small detail of Elvira’s and María’s lives, creating an archetype of the social deviant who should be repressed and punished for the benefit of the neighborhood, community, and town. The urban judge decided to banish María González from Molina de Aragón for a couple of years. Nevertheless, the king, by using his royal grace, decided to overrule this sentence. All the community’s arguments to punish María were not sufficient to actually get her out of town. Thus, the king’s paternalism functioned to avert social prejudices and discrimination against outsiders and deviants who did not represent a real threat to the government.

Conclusion

To end this reflection on social control from below, let me just stress that the Spanish early modern experience shows the potent social forces, groups, and institutions that left an imprint on judicial and political institutions. Consequently, the arbitration of disputes resulted from the combination of all those forces, in order to preserve public peace within tolerable limits. Self-control and family and community discipline were fundamental ingredients of this process of keeping individuals within tolerable limits. Nevertheless, a dialogue went on between official and informal means, aims, and mechanisms of social control. Patriarchy stood at the base of the political structure, which gave the king the last word in terms of justice. This was crucial for people like María González and Elvira de Espinosa in 1630, to help them ward off community discrimination.

Nevertheless, it was clear that most cases were considered in other spheres of social control, outside the king’s court. In those cases, social views and popular culture were important factors for handling disputes as well as solving conflict in and out of court. There was no real intensification of jurisdiction from above in early modern Spain that could be understood as a devolution of social control from the highest to the lowest courts, as Richard L. Kagan has argued. What happened instead was that popular spheres, social forces, and customary institutions never ceded their own right to arbitrate disputes. Increasingly, they arbitrated everyday disputes by using local courts as the arena for discussion—even if the solution frequently took place out of court. The king, nevertheless, attempted to limit these spheres of social control from below by underlining the task of every local court to monopolize justice in their environment. Perhaps that is why the Spanish government attempted to control guilds and confraternities in the second half of the eighteenth century, while many people still relied on them to settle everyday problems and disputes. All these characteristics ensured that justice had a hybrid nature, official and popular, in Spain until the end of the Old Regime. Then, justice was the result of the dialogue between the king and popular culture on the meaning of social control.
Some ideas included in this study have been discussed during the first and second international conferences on social control in the early modern period at Menaggio (October 1997) and Amsterdam (November 1998), also within the framework of the Criminal Justice Network of the European Social Science History Conference in Amsterdam (1998 and 2000). I am thankful to the participants in all those meetings for their comments.


2. This appears in the research done on the Church courts of Castile, Extremadura, and Andalucía in the sixteenth–eighteenth centuries: Pérez, *Pecar, delinquir y castigar*; Candau-Chacón, *Los delitos y las penas*; Lorenzo Pinar, *Amores inciertos*. See also Fortea, *Furor et rabies*.


8. See on this the opinion of Fr. Luis de León, *La perfecta casada*. This was the most influential book on this topic. Marcel Bataillon found eleven editions of León’s book between 1550 and 1589. Bataillon, *Erasmo y España*, 634.


10. Research on the northern Spanish coast, the interior of Castile, and Andalusia gives these results. See the quoted books written by F. J. Lorenzo, M. L. Candau-Chacón, and T. A. Mantecón.


13. It had less than 10 percent single people and higher marriage ages than was common in eastern Europe. The western European family, constituted between 1650 and 1750, tended toward a nuclear form, was focused on the descendants and was dominated by an increasing affection between wife and husband, parents and children. This created the basis of individualist feelings in family experiences. Shorter, *Naisance de la famille moderne*. Furthermore, it contributed to women’s sexual liberation and women’s labor, mainly in the cities. Laslett and Wall, eds., *Household and Family in Past Time*; Schofield and Wrigley, *The Population History of England*; Ariés, *Centuries of
Childhood; Goody, *La evolución de la familia y del matrimonio*; Stone, *Family, Sex and Marriage in England*.


19. This refers to *honor* as well as *honra*. On this distinction, see Mantecón, “Honor and Everyday Life,” 203–24.


21. About 10 percent of the fishermen of Cantabria in the eighteenth century had their own ship. However, many fishermen were allowed to take part in association with others or to rent a ship. Ortega, *Gentes de mar*, 208–15. Frederic Le Play had explained it very well earlier. Le Play, *Campesinos y pescadores* (Spanish information from his report on *Les ouvriers européens*, 1877–1879).


23. This was one of the main functions of medieval confraternities in Spain and Portugal. Mantecón, *Contrarreforma y religiosidad popular*, 175 et seq. Ruiz de la Peña, “Las solidaridades vecinales,” 57–58; Da Cruz, “As confrarias medievais portuguesas,” 163. Still this was a very angular point in the eighteenth-century Spanish confraternities according to many reports from the chief magistrates of different parts of Castile, Andalusia, Valencia, Extremadura, Galicia, and the Basque country. AHN (National Historical Archive), *Consejos*, sig. 7092 and 7094 (unnumbered pages).

24. This was said explicitly by the members of the confraternity dedicated to the Holy Rosary in the village of Riaño (Cantabria) in the eighteenth century. ADS (Santander Diocesan Archive), sig. 1590, 14–15.


26. This includes cases in which families sued a convent. This institution kept the dowry of its nuns, which families considered a part of the divisible inheritance. See Lehfeldt, “Convents As Litigants,” 645–64. Nevertheless, litigation on this point was an exception instead of a rule within the total rates of inheritance disputes.


moriscos; Pérez García, “Conflicto y represión,” 185–98. A recent book is the most complete study of El Encubierto and the social and political context of the movement, focusing on the last Encubierto, Don Enrique de Mendoza (1541) and including an edition of the most relevant documents of his trial: Pérez García and Catalá Sanz, *Epígonos del encubertismo*.

30. ARCHV (Archive of the Royal Court of Valladolid), *Pleitos Criminales*, doc. C-108–2. I’ve studied this and similar cases of the north of Spain in the eighteenth century in Mantecón, “Popular Culture.”


33. AGS (General Archive of Simancas), CC (Cámara de Castilla), leg. 1778, doc. 24, ff. 1–4.

34. Ibid., 4–6.