

LITIGIOUS PAUPERS: NATIVES AND COLONIAL DEMANDS IN TLAXCALA, 1545-1800

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## ABSTRACT

Tlaxcala, a small area of the Spanish empire located in what is now central Mexico, became a complex juncture point between Europeans and native peoples who responded to Spanish aggression, which was characterized by exploitative labor systems, with violence, flight, and litigation. Because of the pivotal role of Tlaxcalan allies in the conquest, it was one of the first places where the Spanish forced natives to adopt a *cabildo*, or municipal council. The structure of indigenous institutions facilitated the change to Spanish styled government. In many ways the municipal council was a bridge between both populations since the elected native officials had close contact with Tlaxcala and its constituent communities as well as with the imperial bureaucracy of Spain.

My dissertation examines the dynamic nature of colonial society that made the interconnected experiences of natives from all socioeconomic classes significant since nobles defended laborers in court, made labor arrangements with them, or exploited them in similar ways as the Spanish. I argue that the largely autonomous indigenous town council officials acted as negotiators and in the process disrupted and shaped the labor and tribute demands of the crown. Moreover, laborers grew adept at representing themselves in court as the colonial period wore on since their labor was in high demand and Spanish settlers encroached upon their land. In addition, the presence of African slaves influenced the argumentation of indigenous litigants. Plaintiffs made compelling arguments in which they defined their freedom based on that fact that they were not enslaved. The legal system functioned as a battleground for natives, but it also represented a form of control. However, the indigenous population chose to interpret the

courts as a legitimate tool at their disposal and in the process transformed the colonial experience.

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## **Introduction**

### **The Beginnings of a Colonial Society**

In 1519 Hernan Cortés and Bernal Díaz del Castillo observed the quotidian life of the indigenous peoples of the Valley of Mexico as they walked on the causeway between Chalco and Xochimilco on their way to meet Moctezuma. The conquistador and his chronicler marveled at the bustling, beautifully constructed towns that looked unlike anything they had ever laid eyes upon.<sup>1</sup> Undoubtedly, Cortés imagined what he stood to gain from the wealth produced by such an efficient civilization. What he and his army experienced with amazement that day was arguably the most powerful empire to rule in Mesoamerica. Prophecies may have tormented Moctezuma, but Cortés could not have been certain of his eventual triumph over the indigenous ruler's forces after much bloodshed. Spanish victory ushered in an era of profound change for the indigenous peoples of central Mexico.

Cortés led the victory of the Spanish over the confederation of peoples known as the Aztecs, but the participation of indigenous allies was a defining factor in the outcome of conquest. The Aztecs commanded an impressive empire whose centralized power enabled its expansion, but they had also created enemies around them. As the Spanish trekked toward Tenochtitlan, present day Mexico City, from the eastern coast in 1519, they came into contact with the small independent nation state of Tlaxcala. Its location in the central Mexican valley was in close proximity to the powerful Aztec empire. The apogee of Tlaxcalan wealth occurred approximately a century before Cortés arrived. Extensive trading networks fueled an economy based on the exchange of commodities

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<sup>1</sup> Bernal Díaz del Castillo, *The Bernal Díaz Chronicles: The True Story of the Conquest of Mexico*, trans. Albert Idell (New York: Doubleday & Company, 1956), 139.

such as gold, silver, cacao, salt, and cotton.<sup>2</sup> Prolonged warfare between the Aztecs and Tlaxcala marred this time of prosperity since the latter vehemently resisted absorption into the vast empire. On the eve of the conquest Tlaxcala had lost much of its wealth because of its preoccupation with defending its independence.<sup>3</sup> This state of affairs set up an exploitable situation in which the less powerful Tlaxcalans would welcome the Spanish as their military saviors. However, just as the Aztecs posed a threat, so too did the newcomers.

Economic decline and constant warfare seemed like the perfect catalyst for an alliance with Cortés, but Tlaxcalan leaders knew of his approach towards their territory with an army that included about three hundred indigenous allies, all Aztec subjects, from the regions of Zacatlán and Ixtacmaxtitlán.<sup>4</sup> Despite receiving a message of peace, the Tlaxcalans decided, after much debate, that first they would try to subdue the Spanish and if they failed they would have no choice but to be on good terms with them.<sup>5</sup> Approximately two weeks of intense warfare ended in defeat at the hands of the Spanish army thus sealing their fate as allies in the demise of the Aztec empire. And so Tlaxcala inadvertently claimed a notable role, although one steeped in ambiguity, in one of the world's most consequential meeting of cultures.

Tlaxcala played a prominent role in the conquest and is a significant example of how indigenous peoples negotiated their place in a society controlled by Spaniards. How they used the legal system especially in relation to issues of tribute and labor to accomplish this is the subject of the current study. The nobility established contact with

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<sup>2</sup> Charles Gibson, *Tlaxcala in the Sixteenth Century* (Stanford: Stanford University Press, 1952), 14-15.

<sup>3</sup> Ibid, 17.

<sup>4</sup> Ibid, 16.

<sup>5</sup> Ibid, 18-19.

the Spanish crown soon after the military victory of Cortés in order to gain favors in return for their alliance. That was the beginning of Tlaxcala's participation in Spanish legal traditions. Later both nobles and commoners were full participants in a system that placed them under control of the crown thus subjugating them but which also granted them protection. How that control and the autonomy of natives played out in a colonial setting is the focus of this dissertation.

Who were the Tlaxcalans and how did they come to inhabit the region that put them in the path of Cortés? The architecture and drawings of the Great Pyramid of Cholula in Puebla are proof that the urban center of Teotihuacan had a strong influence in the area during the Early Classic period, AD 150-600. However, the city was attacked and burned in AD 700 thus marking its decline.<sup>6</sup> Next, a group known as the Olmeca-Xicallanca established their power over the Puebla-Tlaxcala region from Cholula, their capital, during the Early Post-Classic period, AD 900-1200. As this occurred, an influx of Nahuatl speaking tribes from the north introduced waves of settlers into central Mexico that included the predecessors of the Aztecs, the Tolteca Chichimeca, or Toltecs. Among the tribes were the Chichimeca-Poyauhteca, or Teochichimeca, who would become known as the Tlaxcalans.<sup>7</sup> The society that the Spaniards encountered began to take shape in the mid-fourteenth century.

The mestizo chronicler, Diego Muñoz Camargo, left behind among the most valuable sources on Tlaxcalan history tracing it back until the pre-Hispanic era with a description of customs before contact with the Spanish.<sup>8</sup> According to him, warfare was

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<sup>6</sup> Michael D. Coe, *Mexico: From the Olmecs to the Aztecs*, 7<sup>th</sup> ed. (London: Thames and Hudson, 2013), 105-106.

<sup>7</sup> René Cuéllar Bernal, *Tlaxcala a través de los siglos*, (México: B. Costa-Amic, 1968), 23.

<sup>8</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 5.

the means by which the Tlaxcalans asserted their presence and intimidated other peoples. Consequently, the time of peace that followed was when they established the first of four *señoríos*, or lordships, that formed the entity of Tlaxcala.<sup>9</sup> They were founded in the following order: Tepeticpac (1348), Ocotelulco (1385), Tizatlan, and Quiahuiztlan.<sup>10</sup> By the time of the conquest, each part had been under the power of at least six rulers from their own dynasties. The unity among the four rulers was evident in their process of choosing heirs. The eldest son was typically the next to assume leadership or a brother if there was no son, however, the others had to approve of him. In the event of disapproval, they proposed a “substitute son.”<sup>11</sup> The custom of deliberations in order to ensure cohesiveness was also part of their response to the threat posed by the Spanish. Once Tlaxcalan rulers faced the reality of defeat in 1519, they met in order to decide on how to proceed. Peace and alliance were the outcome, but resistance to that specific decision, which had to be unanimous, made their future uncertain albeit for a short time.

The victory of Cortés changed the course of history but more than likely it would not have been possible without his allies. In 1521, two years after agreeing to help, Tlaxcalans inhabited a new colonial administrative unit, the viceroyalty of New Spain. Almost immediately, the exploitation of indigenous peoples began to fuel the exhausted finances of Emperor Charles V. By the 1530s he relied heavily on the colonies in the New World as one of his principal sources of revenue for his relatively impoverished kingdom.<sup>12</sup> Colonial sources describe the transatlantic journeys of ships heavy with

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<sup>9</sup> Diego Muñoz Camargo, *Historia de Tlaxcala*, ed. Germán Vázquez (Madrid: Historia 16, 1986), 114.

<sup>10</sup> Cuéllar Bernal, 28-34. For lack of certainty, the dates for the last two *señoríos* are not provided.

<sup>11</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 4.

<sup>12</sup> Henry Kamen, *Spain 1469-1714: A Society of Conflict*, 3<sup>rd</sup> ed. (New York: Longman, 2005), 88.



treasure and goods endemic to the Americas. The onerous labor of natives produced wealth of immense proportions for those ships.

Colonial rule represented an immense burden for the lower echelons of indigenous society. This study examines how Tlaxcalans, both nobles and commoners, fulfilled and contested royal demands for labor and tribute, the foundation of the crown's mercantilist ambitions. How natives utilized the Spanish imposed legal system as a tool to diminish the pressures of colonialism played a significant role here as well as in other areas of New Spain. While it is true that natives veritably constructed the new society from the ground up, as they did so they fought to maintain some control over their lives. Moreover, the present study seeks to analyze how the actions of Tlaxcalans, both the nobility who navigated a precarious relationship with the nascent Spanish bureaucracy and the commoners whose labor was highly valuable, shaped colonial relations. Nobles retained a high status after conquest and in the case of Tlaxcala they left behind evidence of how they perceived their alliance with Spain and also of how that perception changed over time.

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The historiography of Tlaxcala is a subset of the rich scholarship of Spanish America. This small geographical area replete with historical significance was the subject of ethnohistorian Charles Gibson's groundbreaking monograph, *Tlaxcala in the Sixteenth Century*. His study about the operation of a somewhat autonomous indigenous government, alongside a Spanish one, reinterpreted the role of natives from passive victims to actors. Critical developments in the field of anthropology strongly influenced how scholars such as Gibson conceptualized non-Western cultures. As Benjamin Keen

pointed out, anthropologist Franz Boas presented the revolutionary idea that no culture was superior than another.<sup>13</sup> Having shed the myopic notion that indigenous peoples were barbarians, scholarly attention shifted to human agency. Earlier studies glorified the authority of Spanish officials, but that approach failed to convincingly explain how only one person, for instance a viceroy, managed to mobilize hundreds of thousands of indigenous commoners to perform labor and pay tribute. Although the crown's rhetoric and its bureaucrats' actions changed native societies, Gibson's book showed how much influence a minimally supervised indigenous town government, composed of pre-conquest leaders, wielded the vital operations of an empire. Before examining the impact of Gibson's later work, how historians first approached the history of native populations is significant.

Over the years, scholars analyzed the experiences of natives in relation to labor using different methodologies. Institutional studies such as Lesley Bird Simpson's *The Encomienda in New Spain* focused on the Crown's legislation to protect natives. This labor institution entitled Spaniards who had served the crown during the conquest to the labor and tribute of natives as an encomienda was a grant. The New Laws of 1542 embodied clerical paternalism towards natives and royal concern about encomenderos' power in New Spain. Simpson produced an apologetic study since he took "benevolent" legislation at face value and argued that encomenderos logically wanted to protect those upon whose labor they depended. As the historiography developed, that logic was hard to find. This is not to say that he denied intentional Spanish cruelty. His demographic analysis revealed the detrimental effect of the *encomienda*. However, when comparative

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<sup>13</sup> Benjamin Keen, "Main Currents in United States Writings on Colonial Spanish America, 1884-1984," *Hispanic American Historical Review* 65, no. 4 (1985): 671.

research yielded different results for various encomiendas, he explained positive trends with benevolence. Factors such as the decline of the institution or native flight would surface later as more satisfactory possibilities.

While scholarly study of monarchs, viceroys, and institutions showed how the Spanish imposed their rule, vital linkages within colonial society had yet to be examined. Charles Gibson changed the scope of the literature with *The Aztecs Under Spanish Rule* which revealed the inner workings of land, labor, tribute, and government. Unlike previous studies, he documented direct contact between representatives of the Crown and natives. Meticulous archival research showed how the Spanish organized and used labor based on native institutions. Gone was the impression of a sweeping Spanish conquest. Gibson managed to convey the complexity of colonialism, but natives only received attention as subjects, not active agents. Unlike Simpson, he stressed the exploitative nature of the Spanish. Labor and exploitation emerged as central themes in later studies such as *Indian Labor in Mainland Colonial Spanish America* by Juan A. and Judith E. Villamarin. They contributed by delving deeper into how different labor systems altered life, yet the point of reference was still Spanish institutions. William L. Sherman tried to combine both a Spanish and native point of view in his social history *Forced Labor in Sixteenth Century Central America*. The Cerrato Reforms were designed to protect laborers, but he argued that exploitation was the norm anyway.

The New Laws of 1542 meant to protect natives from exploitation, but Spanish officials throughout New Spain largely ignored that royal legislation. Alonso López de Cerrato, *a juez de residencia*, an investigating judge, followed in the footsteps of his esteemed friend Bartolomé de las Casas in trying to achieve justice and protection

for natives. Cerrato's actions angered the Spaniards who had no interest in championing the rights of the labor they used as they saw fit. The juez combated slavery which put him in direct conflict with Spaniards who believed that the institution was remedy for men's abuse of alcohol and women's immoral behavior.<sup>14</sup> The treatment of natives nonetheless was analyzed through the actions of Spaniards, with Cerrato at the forefront of the initiative.

An important question remained: how did natives react to colonial labor demands and other changes? Scholars began to interpret Spanish sources differently in the sense that they looked at what the documents said about the people who produced them. In other words, attention to causes and forms of native behavior took precedence over acceptance of a discourse accepting European superiority and unquestioned subjugation. William B. Taylor's *Drinking, Homicide, and Rebellion in Colonial Mexican Villages* shifted the focus towards natives' responses to authority with criminal case records. Not only did alcohol consumption fail to destroy communities as previously believed, especially by Gibson, but these protested taxes and abusive officials. Taylor found that there was a correlation between grievances and illegal activity. Thus, colonial disorder was not a product of natives' aversion to order; they refused to accept the Spanish version of it. His use of legal records was a contribution since courts represent an arena where natives enjoyed a precarious degree of legitimacy and skillfully defended themselves. In a similar methodological vein, Steve J. Stern found that the legal system was an effective tool against mandatory mine draft labor in Peru. *Peru's Indian Peoples and the Challenge of Spanish Conquest* used a Marxist interpretation to demonstrate how natives

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<sup>14</sup> William L. Sherman, *Forced Native Labor in Sixteenth-Century Central America* (Lincoln and London: University of Nebraska Press, 1979), 133-134.

were exploited for the benefit of a global market from which they reaped no benefits. The *mita* was notorious for causing demographic decline and disrupting native institutions. Stern argued that the draft system began to disintegrate as a result of consistent and successful lawsuits initiated by native plaintiffs. They emerged in the historiography as actors rather than passive subjects. The focus remained on them, but the approach changed.

Ethnohistory, the combination of history and anthropology, enabled scholars to trace changes and continuities in native culture. The breadth of Gibson's seminal work, *The Aztecs Under Spanish Rule*, was greater in terms of geography and chronology. His ethnohistorical approach was more acute and the result was a rich, detailed history of nearly every aspect of indigenous life in central Mexico. Gibson contributed an understanding of the very foundation of colonial rule with his finding that Spaniards imposed their institutions on pre-existing native ones.<sup>15</sup> This discovery allowed him to intricately map institutions which in turn threw the door open for his detailed account and analysis of Spanish administration. It is undeniable that Gibson shaped future generations of Latin Americanists. He brought indigenous peoples to the fore, where they remained, as scholars continued to formulate questions based on the premise that resilient communities were significant in a Spanish dominated world.

Following Gibson's lead in ethnohistory, James Lockhart and his many students produced a body of scholarship under a school of thought known as New Philology. Lockhart pioneered its methodology: using sources written in Nahuatl to analyze how natives viewed Spaniards and colonialism. Changes in the Nahuatl language over time

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<sup>15</sup> Charles Gibson, *The Aztecs Under Spanish Rule: A History of the Indians of the Valley of Mexico, 1519-1810* (Stanford: Stanford University Press, 1964), 34.

are considered indicators of mutual cultural exchange and assimilation. The point of view shifted, from Spanish to indigenous, revealing strong evidence of cultural survival after the conquest. Gibson found that a system of *cabeceras* and *sujetos* (head and subject towns) was efficient because the blueprint for them had already been there. Lockhart's perspective helped him discover that the units of government described in Spanish documents were actually pre-Hispanic *altepetl*, or indigenous ethnic states.<sup>16</sup> Such a finding challenged the perception of sweeping changes in native life as new institutions masked old ones; Gibson and Lockhart differed in this respect.

The students trained by Lockhart in this methodology have produced different studies of various geographical areas. In *The Nahuas After the Conquest* he has the same broad scope as Gibson's most well-known book, and his students' studies are like puzzle pieces completing a larger picture. Robert Haskett, S.L. Cline, and Rebecca Horn focused on Cuernavaca, Culhuacan, and Coyoacan respectively.<sup>17</sup> In his study of Cuernavaca, *Indigenous Rulers*, Robert Haskett demonstrated the autonomous nature of town government closely based on pre-Hispanic custom. Whereas Gibson had interpreted the introduction of a Spanish style *cabildo* as a decline in autonomy and acculturation, Haskett traced the similarities between native and Spanish government. The nobility utilized the new system in order to maintain pre-Hispanic titles and privileges. S.L. Cline found the same level of autonomy in Culhuacan in central Mexico. Town government exercised the same previous duties such as collecting taxes,

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<sup>16</sup> James Lockhart, *The Nahuas After the Conquest: A Social and Cultural History of the Indians of Central Mexico, Sixteenth Through Eighteenth Centuries* (Stanford: Stanford University Press, 1992), 14.

<sup>17</sup> Robert Haskett, *Indigenous Rulers: An Ethnohistory of Town Government in Colonial Cuernavaca* (Albuquerque: University of New Mexico Press, 1991), S.L. Cline, *Colonial Culhuacan, 1580-1600: A Social History of an Aztec Town* (Albuquerque: University of New Mexico Press, 1986), Rebecca Horn, *Postconquest Coyoacan: Nahua-Spanish Relations in Central Mexico, 1519-1650* (Stanford: Stanford University Press, 1997).

demanding labor for public works, and overseeing transmission of property. Rebecca Horn delves into Spanish-native relations regarding market and land transfer patterns in *Postconquest Coyoacan*. She argues that Spanish reorganization of the *altepetl* led to its fragmentation, but natives did not become victims of colonization. They established smaller units with town councils thereby reestablishing some autonomy. What Lockhart did for the Nahuas, Kevin Terraciano did for Mixtec culture in the Valley of Oaxaca for the same time frame.<sup>18</sup> Sources in Mayan languages are scarce but Matthew Restall expanded the horizons of New Philology to include natives of the Yucatan.<sup>19</sup> Overall, this body of work demonstrates the continuity of indigenous culture and customs long after the conquest.

In central Mexico, resilience characterized three crucial aspects of pre-Hispanic life: language, sociopolitical units, and government offices. Changes in language, such as the use of Spanish loan words and grammatical structure, map the gradual process of increasing contact between indigenous peoples and their colonizers. Lockhart identified three stages of shifts in Nahuatl that span until the present day. The first begins at the time of contact in 1519 until approximately 1550. The Spanish language spread little during this time due to the low ratio of Spaniards to natives thus only new Nahuatl expressions describing Spanish terms materialized.<sup>20</sup> The second stage spans about a century from about 1540 to 1650. Natives borrowed Spanish nouns much more frequently although that was hardly the case for verbs.<sup>21</sup> Finally, from 1650 until today

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<sup>18</sup> Kevin Terraciano, *The Mixtecs of Colonial Oaxaca: Nudzahui History, Sixteenth Through Eighteenth Centuries* (Stanford: Stanford University Press, 2001).

<sup>19</sup> Matthew Restall, *The Maya World: Yucatec Culture and Society, 1550-1850* (Stanford: Stanford University Press, 1997).

<sup>20</sup> Lockhart, *The Nahuas After the Conquest*, 324.

<sup>21</sup> Ibid, 284.

Nahuatl contained more loan verbs and grammar underwent changes. Roughly a century after that, a notable increase in writings authored by natives shows that they had mastered the Spanish language.<sup>22</sup> Sources in Spanish describe the operations of colonialism whereas incremental shifts in the Nahuatl language show evidence of the coexistence of two distinct cultures and the extent of their interaction.

Language presented a barrier that Spaniards desperately needed to transcend for proselyteization, a task that the mendicant orders such as the Franciscans performed with fervor, and in order to organize a new society. Indigenous sociopolitical organization, on the other hand, rendered it unnecessary for the Spanish to reinvent the wheel when it came to colonial institutions in central Mexico. The bureaucratic prowess so meticulously described in Gibson's work had a sophisticated system of entities as its foundation, the *altepetl* and their constituent sub-units. This methodology changed the lens through which native culture was viewed. However, a look specifically at how labor and tribute has been treated in the historiography is essential for this study. The crown set up colonies in order to enrich an empire and accommodate its leadership to carry out its interests. The labor of thousands of natives was the basis of its wealth and tribute gave colonialism the financial muscle it needed in order to function. How Gibson and Lockhart's work fits into the framework of labor and imperialism is also important.

In his analysis of this school thought, Matthew Restall asserted that its development can be divided into three phases beginning in the late 1970s up until the present.<sup>23</sup> The long road to a rich scholarship that used colonial sources in indigenous

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<sup>22</sup> Ibid, 304 and 319.

<sup>23</sup> Matthew Restall, "A History of the New Philology and the New Philology in History," *Latin American Research Review* 38, no. 1 (2003): 113-134.



languages began with Mexican scholars such as Angel María Garibay, Fernando Horcasitas, and Miguel León-Portilla, however, their work lacked the audience that Lockhart's students and others would have later.<sup>24</sup> As Restall pointed out, the New Philology benefitted from the work of those scholars, but the defining moment was when Arthur Anderson, Frances Berdan, and Lockhart analyzed notarial sources such as testaments and land records.<sup>25</sup> This set in motion the publication of the aforementioned studies of Cline, Haskett, Horn. Lockhart's monograph, *The Nahuas After the Conquest*, tied together the work of these scholars which provided a larger picture of how indigenous culture survived. What is more, he argued that three stages of linguistic change, indicated by incorporation of Spanish words into Nahuatl, reflect adaptations in other aspects of life such as labor. For instance, as the Nahuatl language demonstrated progressive adaptations of Spanish words, labor also shifted from formal institutions such as the *encomienda* to informal arrangements between natives and Spaniards. Overall he argued that native life did not change dramatically, but rather gradually over a period of three centuries.

The second phase of the New Philology saw the geographical scope of this methodology extend beyond central Mexico and into southern regions such as Oaxaca and Yucatan with studies by Kevin Terraciano and Restall respectively.<sup>26</sup> While the scholarship of Latin America has grown significantly with this approach, Restall acknowledges that there is hardly any surviving written documentation for Andean native peoples compared to that of Mesoamerica. However, he points out that scholars of that

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<sup>24</sup> Ibid, 115.

<sup>25</sup> Ibid, 116.

<sup>26</sup> Ibid, 121.

region “have responded to the absence of such sources with an increasingly sophisticated set of methodologies.”<sup>27</sup> As for the future of the New Philology, he believes that the methodology can be applied to any colonial source, not only those in native languages, and that documents in pre-Hispanic languages will become a part of nearly every student’s approach to the study of indigenous peoples.

Lockhart’s work was a significant departure from Gibson’s *Aztecs Under Spanish Rule* and his earlier institutional study, *Tlaxcala in the Sixteenth Century*. For purposes of labor, Lockhart’s argument that the altepetl remained intact for the most part after the conquest clarified Gibson’s accurate observation that Spaniards used existing native institutions. However, Gibson examined native life through Spanish eyes. The system of *cabeceras* (head towns) and *sujetos* (subject towns), which guided his research, was a Spanish creation. According to Lockhart, the ethnic state enabled town government to function because natives used pre-Hispanic principles and labor extraction was successful because there had already been a rotational labor system in place. Gibson acknowledged the influence of the nobility after conquest in Tlaxcala, but gave superficial consideration as to why this was the case. Lockhart provided a convincing answer by arguing that the altepetl throughout central Mexico had stayed largely intact from pre-Hispanic times. For him, the key was to analyze language in order to find continuity in the lives of natives and also, how pre-existing institutions influenced Spanish colonialism. In other words, influence was not just one-sided.

Lockhart and his students changed the historiography significantly with their findings. However, their studies tend to treat natives and Spaniards separately to a

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<sup>27</sup> Ibid, 127.

questionable degree (with the exception of Horn). Both populations came into contact much more than they suggest. A useful study which is on the other end of the spectrum in terms of inter-group contact is Rik Hoekstra's economic study of the Valley of Puebla, *Two Worlds Merging*. He contended that mutual self-interest was the driving force between Spaniards and the native nobility in their exchange of labor using pre Hispanic methods. While this bears resemblance to Gibson's and Lockhart's finding about labor, Hoekstra's nuanced approach applies a lord-subject relationship based on European history. However, his model implies egalitarian negotiation and thus neglects exploitation.

Scholars in the field of colonial Latin American history have shifted their focus towards natives and their experiences, yet very few of them have examined the legal arena where natives frequently litigated for decades beginning in the 1590s. Laws and labor became intimately connected for the colonial indigenous population. The Spanish crown brought over to the colonies the idea that all people should have access to the legal system. It classified natives as paupers who had a right to legal protection. The fact that they became adept litigants was reflected in the large number of suits they initiated. Such was the flood of suits that the viceroy set up the General Indian Court in 1592. Historian Woodrow Borah studied the bureaucratic inner workings of this institution in *Justice by Insurance*. The colonial government supported the tribunal by allocating a small portion of tribute levied on natives to a fund that paid officers' salaries. His book brought attention to the types of cases that the court addressed in different parts of colonial Mexico such as land disputes, forced labor, and criminal cases.

The crown was in dire need of a solution because frequent indigenous involvement in legal issues was time consuming. The ways in which authorities handled complaints such as abuses by officials was intimidating for natives since they feared retaliation. During the mid-sixteenth century a type of inspection known as the *residencia*, which occurred at the end of any administrative term, exposed misconduct and complaints thus sending serious offenses to the court.<sup>28</sup> But rather than risking retaliation from Spanish officials, indigenous litigants sought another route, an administrative solution. Borah maintained that litigants favored this because it was a viceregal hearing; their odds of winning a case were higher because they would garner more sympathy through this process.<sup>29</sup> These hearing tended to be sympathetic to natives because they were plaintiffs most of the time.

Viceroy Luis de Velasco II became the official in charge of most indigenous litigation in the mid 1500s, however, the courts disputed his authority and the power granted him by the crown prevented him from dealing with cases where natives were plaintiffs.<sup>30</sup> Thus, he organized the General Indian Court. He formalized its existence by appointing two officers in charge of native matters, an attorney general, or *procurador general de indios*, whose duty was to advocate and defend in favor of natives, and an assessor to advise the former.<sup>31</sup> The fear of retaliation never completely disappeared, but the flood of litigation demonstrated that the court was a tool for the indigenous population.

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<sup>28</sup> Woodrow A. Borah, *Justice By Insurance: The General Indian Court of Colonial Mexico and the Legal Aides of the Half-Real* (Berkeley: University of California Press, 1983), 52.

<sup>29</sup> Ibid, 53.

<sup>30</sup> Ibid, 91-95.

<sup>31</sup> Ibid.

Nevertheless, how the system affected society was not part of his study. Susan Kellogg analyzed the larger implications of natives' actions in *Law and the Transformation of Aztec Culture*. She asserted that the legal system was a tool of acculturation that forced them to adopt Spanish culture in order to participate in that arena. Changes in family life, property, and gender demonstrated this process. And more recently, R. Jovita Baber's dissertation about Tlaxcala argues that natives shaped the legal system.<sup>32</sup> However, she mainly examines relations between the crown and the native nobility to support her contention that empire was a legal construction characterized by reciprocity.

Native peoples became adept at forging new relationships during the colonial period in which they could generate some kind of negotiation in order to maintain some power. Yanna Yannakakis explores how the natives of Oaxaca had a voice in local rule through intermediaries who depended on their knowledge of their customs before conquest and the new legal system imposed. They used the contradictions within the colonial system, such as the conflicts between power hungry Spanish officials, to their advantage. Natives declared their loyalty to the crown while litigating against the officials who represented it.<sup>33</sup> The acculturation that occurred, as Kellogg demonstrated, was what ultimately allowed natives to participate in and manipulate the system in their favor.

How the legal system came to encompass the "rights" of native peoples is the subject of Brian Owensby's work. Prominent thinkers and theologians of the day

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<sup>32</sup> R. Jovita Baber, "The Construction of Empire: Politics, Law, and Community in Tlaxcala, New Spain, 1521-1640" (PhD diss., University of Chicago, 2005).

<sup>33</sup> Yanna Yannakakis, *The Art of Being In-Between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca* (Durham and London: Duke University Press, 2008).

grappled with how to classify the king's new subjects under Spanish law. Should they be free? Should they be enslaved? The crown settled on bestowing upon them the treatment it extended to other vassals.<sup>34</sup> However, natives were considered inferior to Spaniards. Owensby showed how natives helped shape the arguments and the very words used to express those demands in court. That, in turn, demonstrated which aspects of Spanish rule they reacted to and how they sought changes that helped them have control over their lives.

I agree with Kellogg's contention that natives had to adhere to the rules of the system to use it successfully. For instance, she demonstrated that in order for natives to protect their property and possessions, they based their claims less and less on pre-Hispanic ideas as time went by. However, she acknowledged that natives did not subjugate themselves. There are hundreds of cases in which native plaintiffs appeared before the General Indian Court to complain about labor and tribute demands. They range from natives seeking their relatives' freedom from *obrajes*, or sweatshops, because Spanish owners had locked them inside for years to individuals requesting protection from corrupt *cabildo* officials who made lucrative labor arrangements with Spaniards. Thus, social and economic relations in Tlaxcala, as well as in other parts of the Spanish empire, were complex beyond a dichotomous categorization of conquerors and conquered people. Furthermore, litigation demonstrates that natives not only reacted to changes taking place but also tried to influence the outcome to their advantage. The legal system was a Spanish creation, yet it is highly unlikely that the crown was able to control all of the results of conflicts and the changes these set in motion. This persistent legal

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<sup>34</sup> Brian P. Owensby, *Empire of Law and Indian Justice in Colonial Mexico* (Stanford: Stanford University Press, 2008), 136-137.

activity needs attention since a significant number of court rulings favored native plaintiffs.

Tlaxcala's economy is a significant context for litigation because as the native community lost land, haciendas increased in size and importance. By the eighteenth century natives labored on haciendas temporarily on a contract to contract basis (*tlaquehuales*) or permanently (*gañanes*). Once a place of abundant agricultural production, by this time the decimation of the native population had taken its toll economically as had multiple epidemics.<sup>35</sup> The Spanish population and colonial authorities attacked natives with accusations that they were innately laziness and had a natural tendency towards vice. They tried to force them to stay on haciendas, but natives responded as they had learned to do in previous decades, they sued landowners in court for unjust treatment and failure to pay wages.

Baber's interpretation of the complicated role of the legal system in Tlaxcalan society characterizes natives mainly as negotiators who had a paternalistic relationship with the crown. She sheds light on the power of the nobility after the conquest since it made petitions on behalf of native communities. Baber traced the steps that nobles took for a stake in the negotiation of power at the beginning of Spanish rule. According to her, Tlaxcala's success in gaining the status of city, a favor bestowed on them as a product of their savvy arguments, changed the way the king viewed indigenous autonomy. She pointed out that native municipalities resulted from the example set by

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<sup>35</sup> James D. Riley, "Landlords, Laborers and Royal Government: The Administration of Labor in Tlaxcala, 1680-1750," in *El Trabajo y los Trabajadores en la Historia de México Ponencias y comentarios presentados en la V Reunión de Historiadores Mexicanos y Norteamericanos, Pátzcuaro, 12 al 15 de octubre de 1977*, eds. Elsa Cecilia Frost, Michael C. Meyer and Josefina Zoraida Vázquez, (México: El Colegio de México, 1979), 224.

Tlaxcala.<sup>36</sup> They were subjects of the crown, nevertheless, natives had decision-making power at the local level.

In her dissertation, Baber stressed the importance of Spanish rhetoric claiming that scholars have only considered the institutional factors of colonial society. Based on Spain's paternalistic discourse regarding native peoples, she argues that empire resulted from negotiation. But the nature of Spanish domination should not be overlooked. Spain was in a tenuous position to legitimate her empire since the justification for conquest was religion. Therefore, the "protected" status of natives should be approached critically. Voluminous litigation in which the nobility protested royal demands for hefty amounts of tribute and natives sought relief from exploitative labor practices tells a great deal about the contradictory interests behind Spanish rhetoric. Second, Baber's arguments neglect divisions and power struggles within native communities. The binary of Spaniards versus natives is attributable to Spanish thought. In reality, the conquest presented challenges to indigenous governance such as the disproportionately lower number of ruling positions compared to nobles eligible to fill them. Some nobles also sought personal enrichment through lower class labor. Consequently, suits often originated from interclass disagreements.

In *Mexico's Indigenous Communities*, Ethelia Ruiz Medrano examined how natives defended their lands using the legal system which she sees as a process of negotiation. She agreed with Kellogg's argument that there was "Europeanization" after

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<sup>36</sup> R. Jovita Baber, "Empire, Indians, and the Negotiation for the Status of City in Tlaxcala, 1521-1550," in *Negotiation within Domination: New Spain's Indian Pueblos Confront the Spanish State*, eds. Ethelia Ruiz Medrano and Susan Kellogg, (Boulder: University Press of Colorado, 2010), 31.



the conquest that altered familial units, marriage, and property.<sup>37</sup> During the sixteenth century natives took codices and pictorial manuscripts as evidence to defend their property when there were disputes, but towards the end of the century this custom declined.<sup>38</sup> But natives found a way to have evidence for their legal petitions. They created documents that contained the type of information that codices and manuscripts had provided for their claims. For instance, they recorded the oral history of a town and later introduced it as proof that land was rightfully theirs. Also, titles in Nahuatl that combined oral history and information about when a town was founded were introduced as evidence.<sup>39</sup> Hence it was negotiation; they no longer had codices or manuscripts, but the courts accepted this new type of documentation.

The role of natives within a system where they practiced autonomy yet were part of colonial system was complicated. Scholars such as Matthew Restall dispelled persistent myths about the conquest, such as the crucial help of indigenous allies provided for Cortés.<sup>40</sup> As a revisionist, Restall chipped away at the image that somehow a well-organized, powerful empire was defeated solely by Spaniards, and not by differences in technology nor disease. Others have followed up on the important ideas that he generated with his point of view.

How natives played a significant role in conquest has received more attention. Susan Schroeder identified three trends in colonial historiography. One is the "epic Spanish conquest" by authors such as William Hickling Prescott. Second, scholars like

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<sup>37</sup> Ethelia Ruiz Medrano, *Mexico's Indigenous Communities: Their Lands and Histories, 1500-2010* (Boulder: University Press of Colorado, 2010), 79.

<sup>38</sup> Ibid, 68.

<sup>39</sup> Ibid, 99-100.

<sup>40</sup> Matthew Restall, *Seven Myths of the Spanish Conquest* (New York: Oxford University Press, 2003).

Robert Ricard argued that religious conversions by the clergy, especially the Franciscans, had been effective in converting natives to Christianity. Later Louise Burkhart would argue that language could help us understand how natives understood Christian concepts. Their world view and previous religious beliefs played a prominent role in how they understood Christianity; it was not a sweeping replacement of beliefs as Ricard suggested. Finally, there was what Schroeder called "loser history," events told from the perspective of people such as Cortés and Bernal Díaz del Castillo who felt they had not received what they deserved.<sup>41</sup> The perspective from an indigenous standpoint remains. Michel Oudijk and Restall go further in analyzing how the number of native allies was more numerous than previously thought, the alliances against the Aztecs were the first but far from the last times that natives fought alongside Spaniards, the significant roles of natives as guides, spies, and interpreters had not been previously considered, and the patterns of alliances and trade routes used were not a novel development. The Spanish relied on strategies that native warriors had used before their arrival.<sup>42</sup>

The study of writings by natives have provided insights into indigenous identity. This shows a progression of how the focus on people who previously had no voice has evolved. As mentioned before, the earlier historiography focused on the actions of Spaniards. Recent works interpret and evaluate the actions of natives and scholars like Camilla Townsend take it a step further by studying the mindset of these historical actors. Don Juan Buenaventura Zapata y Mendoza, a noble from Quiahuiztlan, a constituent altepetl of Tlaxcala, produced an invaluable record of his life and the history of the city.

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<sup>41</sup> Michel R. Oudijk and Matthew Restall, "Mesoamerican Conquistadors in the Sixteenth Century," in *Indian Conquistadors: Indigenous Allies in the Conquest of Mesoamerica*, eds. Laura E. Matthew and Michel R. Oudijk (Norman: University of Oklahoma Press, 2007), 5-24.

<sup>42</sup> Ibid, 31-49.

The annals left behind by some of his contemporaries cannot be compared to the written records he left behind for two reasons according to Frances Krug and Townsend. First, Zapata did not merely copy down information, instead, he “synthesized” it and the sources he used were ones written exclusively in Nahuatl.<sup>43</sup> Through his lineage, his family's role in the indigenous cabildo, his use of Nahuatl (instead of Spanish), and his particular word choices, Townsend found that he felt a sense of identity with Tlaxcala. What is more, Spaniards played a very small part in his everyday life, thus his ideas and expressions encompassed an indigenous world.<sup>44</sup> Undoubtedly, it is difficult to study the thoughts and feelings of people who lived long ago, and who have a history of having produced a scant amount of records by their own hand.

Native peoples' agency is present in records that are limited or incomplete. Pictorials form an important part of Tlaxcala's historical record. The Lienzo de Tlaxcala and similar pictorials are visuals of scenes of the conquest. A lienzo is a panel of cloth on which natives painted a representation of events. Travis Barton Kranz compared the Lienzo and other surviving pieces of paintings to each other. He found that Tlaxcalans changed the way they represented events over time in these pictorials; they used them to gain favor from the crown in order to try to secure privileges.<sup>45</sup> For instance, earlier pictorials focused on the fact that natives had given women and gifts during the first stages of conquest. However, according to Kranz the focus shifted from that practice to

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<sup>43</sup> Frances Krug and Camilla Townsend, “The Tlaxcala-Puebla Family of Annals,” in *Sources and Methods for the Study of Postconquest Mesoamerican Ethnohistory, Provisional Version*, eds. James Lockhart, Lisa Sousa and Stephanie Wood, accessed November 17, 2014, <http://whp.uoregon.edu/Lockhart/>.

<sup>44</sup> Camilla Townsend, “Don Juan Buenaventura Zapata y Mendoza and the Notion of a Nahua Identity,” in *The Conquest All Over Again: Nahuas and Zapotecs Thinking, Writing, and Painting Spanish Colonialism*, ed. Susan Schroeder (Brighton: Sussex Academic Press, 2010, 2011), 144-169.

<sup>45</sup> Travis Barton Kranz, “Visual Persuasion: Sixteenth-Century Tlaxcalan Pictorials in Response to the Conquest of Mexico,” in *The Conquest All Over Again*, 44.

representations of “military assistance and depictions of Tlaxcalteca accepting Christianity.”<sup>46</sup> These were subtle yet telling changes about how Tlaxcalans perceived the Spanish and what they could gain if they were strategic in manipulation the content of visuals. The arguments formulated in court on behalf of natives by the cabildo, the lawyers who represented them, and later in the colonial period when they litigated on their own, demonstrate changes such as these as well.

Although it is not without its biases, this study relies on the legal platform that natives used to negotiate and resist the power that colonialism exerted on them. At times it was Spaniards who exploited them or made, in their eyes, excessive demands, but a hierarchy within native communities also caused conflict. The Tlaxcalan cabildo takes center stage in this study as do the *macehaules*, or commoners who tried to have a say in how labor and tribute affected their lives. Scholars have mostly stepped away from the conversation about how natives were exploited. The historiography, especially with the New Philology, has focused on the agency of indigenous peoples rather than the abuses they suffered. The relationship between the legal system and labor ties both exploitation and agency together. Testimony in court cases demonstrates the extent of the mistreatment natives suffered, but also how they defended themselves.

Cultural autonomy, survival, and continuity are all themes of the New Philology. Historians have convincingly shown that conquest failed to obliterate indigenous culture and identity. My argument is that the legal system played a crucial part in helping maintain native autonomy. In the case of Tlaxcala, their status as allies gave them the right to demand privileges. The ones they succeeded in acquiring, which the king granted

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<sup>46</sup> Ibid, 59.

as cédulas (royal decrees), became instrumental in court because the cabildo cited them as proof of exemption from tribute and labor. The cabildo was crucial in defending the native community because during the sixteenth century and for the early part of the next, they represented natives collectively. They argued that because the city of Tlaxcala had privileges, commoners did not have to perform certain labor. During the latter part of the seventeenth century, natives represented themselves individually but still cited privileges. Also, as the Juzgado General de Indios and the Real Audiencia granted verdicts in their favor, natives were able to see that they could gain protection or rights to land and protection for labor for example. The crown treated them harshly in practice because it looked the other way when Spaniards committed abuses, but indigenous plaintiffs held the king to his word. They fought for the freedom and protection described in the legal rhetoric.

The documentation that I relied on includes published primary sources such as the Tlaxcalan Actas, which detail the innerworkings of cabildo activities from 1547 to 1567, and archival documents. I rely a great deal on an excellent edited collection of primary documents by Carlos Sempat Assadourian and Andrea Martínez Baracs that focuses on different aspects of Tlaxcalan history. I do so for the sixteenth century of Tlaxcalan history and I supplement it with archival documents from the Archivo General de la Nación (AGN) in Mexico City, specifically from the ramo Indios. The source material from the Archivo Histórico del Estado de Tlaxcala (AHET) formed a significant basis for the arguments and evidence primarily on the seventeenth and eighteenth centuries found

in these pages.<sup>47</sup> Land disputes, writs of protection, royal orders, and criminal cases are the types of documents that have informed my analysis of changes in Tlaxcalan governance, especially in regard to conflicts over tribute and labor throughout a time period of more than two hundred years. Both archives are a rich mine although there were differences in the materials. For example, the writs I used from the AGN tended to summarize a case, whereas the documents from the AHET tended to be more detailed and were more likely to contain testimony of natives.

In the first chapter I give an overview of the preexisting institutions that the Spanish used to exert their authority politically, socially, and economically, with a focus on the *altepetl* whose importance is amply clear in the historiography. The second chapter focuses on the types of tribute that the Spanish extracted from Tlaxcalans and the reaction from natives who interfered with the collection of tribute using legal favors dating back to the conquest. Chapter three looks at how the sixteenth century was crucial for the political organization of the cabildo and how it set the stage for native officials to retain autonomy as political and legal functionaries into the latter part of the seventeenth century. Chapter four analyzes the legal disputes of the government during the first part of the 1600s. It was a strong entity, thus able to defend commoners against Spaniards with growing estates. The fifth chapter analyzes the trends that began to erode the power of the cabildo during the latter part of the seventeenth century. The native community's landholding had diminished by this time, and the power that was paired with land ownership was in the hands of Spaniards. Despite these changes, however, natives

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<sup>47</sup> The Archivo Histórico del Estado de Tlaxcala (AHET) was previously known as the Archivo General del Estado de Tlaxcala (AGET) and is referred to this way in the edited collection by Sempat Assaudorian and Martínez Baracs.

engaged in litigation to fight for their freedom. Finally, Chapter six examines the role of the hacienda and how natives responded to efforts of landowners to tie them to the land.

## Chapter One

### The Blueprint for Colonial Rule

A relatively small group of Spaniards, along with hundreds of native allies, set in motion unprecedented global and cultural changes with military victory. It is hard to imagine how colonial rule might have materialized had power in indigenous society not been centralized. The crown tailored the existing hierarchy of noble leaders in order to accommodate its extractive apparatus. The introduction of a Spanish modeled municipal council, or *cabildo*, during the sixteenth century established a limit for indigenous autonomy.<sup>48</sup> The changes relegated the status of dynastic rulers such as the *tlatoque*, or dynastic rulers, to supplementary colonial officials in the nascent bureaucracy. However, Spanish control did not turn out to be all encompassing as the crown intended. Even though a cabildo of Spanish officials overlooked the indigenous one, the latter functioned with relative autonomy as the Tlaxcalan meeting minutes demonstrate.<sup>49</sup> In Tlaxcala, like in other places in central New Spain, sweeping changes affected natives, but after the initial period of upheaval came to a close they learned how to manipulate the colonial system with the intent of maintaining some sort of normalcy. This chapter examines the political, social, and economic organization of the native government in Tlaxcala. The Spanish used the institutions that were already in place. Therefore, how indigenous officials fit into this framework was familiar to them, but there were colonial conflicts that they learned to navigate.

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<sup>48</sup> Gibson, *The Aztecs Under Spanish Rule*, 166.

<sup>49</sup> James Lockhart, Frances Berdan, and Arthur J.O. Anderson, *The Tlaxcalan Actas: A Compendium of the Records of the Cabildo of Tlaxcala, 1545-1627* (Salt Lake City: University of Utah Press, 1986).



Tlaxcalan nobles set out to exploit their status as allies immediately after the conquest. In 1527 five Tlaxcalan delegates embarked to Spain in the company of Cortés himself and other nobles such as Moctezuma's relatives.<sup>50</sup> The visit yielded no privileges, but the second one in 1534 proved fruitful. Charles V accepted a meeting with Diego Maxixcatzin, the indigenous gobernador, which resulted in two *cedulas*, or royal decrees, dated 1535, the title of La Leal Ciudad de Tlaxcala (the Loyal City of Tlaxcala) and perpetual crown control for Tlaxcala.<sup>51</sup> The native government's contact with the king, whether it was through carefully planned delegations featuring audiences or correspondence, was continuous until the end of the sixteenth century when some of the last *cédulas* were granted in 1599.

Tlaxcala was in a unique position to contest subjugation due to its role as an ally. Among their requests during their 1540 visit was "the preservation of noble lineages, cabecera successions, and the forms of Indian government."<sup>52</sup> Once the nobility had tried, with ambiguous results, to firmly establish the terms of their leadership, they tackled the immense pressures wreaking havoc on the indigenous population. In the midst of seeking honors, indigenous leaders also began to function in the capacity of defenders of local communities and their inhabitants, a role that was not to cease until the end of Spanish rule. In 1551 officials appeared in court in Mexico City to complain that Spaniards and mestizos who resided in Tlaxcala were causing harm to natives. The petition sought an order for their prompt removal from the city as well as orders that they

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<sup>50</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 164.

<sup>51</sup> Ibid, 164-165.

<sup>52</sup> Ibid, 165.

be held liable for any damages caused.<sup>53</sup> Spaniards had much to gain in the form of goods, land, and manpower from a seemingly inexhaustible pool of indigenous labor. Just a year earlier the cabildo approached the viceroy about an order strictly prohibiting anyone but natives from residing in Tlaxcala. They based their arguments on the cedula of 1535 and succeeded in January 1551.<sup>54</sup> The cabildo's sense of urgency was obvious since they filed their petition that very month on January 13, 1551.

According to Gibson, the most significant gains for Tlaxcalans occurred during the trip of 1583 which lasted until 1585.<sup>55</sup> The cédulas resulting from this visit dealt mainly with labor. The onerous task of physically building an empire and rendering it profitable fell on the Tlaxcalan commoners, or *macehuales*. A steep decline in central New Spain's population during the sixteenth century created a disproportionate demand for native labor. It is estimated that at the time of conquest there were approximately 25 million inhabitants whereas by the early 1600s that number had declined to an alarming 1 million.<sup>56</sup> The cabildo found itself in a precarious situation since they sought the crown's favor while at the same time they had to defend themselves from cumbersome colonial demands the native population could not meet due to the catastrophic decline. Among the cédulas obtained during the 1580s there was an exemption from labor in the valley of Atlixco and other places besides Tlaxcala, an exemption from giving *servicio personal* to Spanish colonial officials such as *tenientes* and scribes, and exemption from "all tribute

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<sup>53</sup> AGN, Mercedes, vol. 3, exp. 652, f. 232v, in Carlos Sempat Assadourian and Andrea Martínez Baracs, eds., *Tlaxcala, textos de su historia: Siglo XVI*, 16 vols., vol. 6 (Tlaxcala: Gobierno del Estado de Tlaxcala; México: Consejo Nacional para la Cultura y las Artes, 1991), 260-261.

<sup>54</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 83-84.

<sup>55</sup> *Ibid*, 169.

<sup>56</sup> Sherburne F. Cook and Woodrow Borah, *The Indian Population of Central Mexico, 1531-1610* (Berkeley: University of California, 1960).

payment.”<sup>57</sup> These privileges not only demonstrate the cabildo’s prowess as negotiators, but also the significance of their services to the crown. However, they could not have known that their gains were far from being a panacea for the plight of macehuales and the obstacles officials faced in maintaining a relatively autonomous government.

The realities of colonial life soon overshadowed the privileges granted by the crown. Natives soon realized that the everyday operations of an empire were more important than the distant king’s authority to enforce what he conceded to honor their alliance. However, the cabildo was in a position to control some aspects of how Spanish rule actually functioned. The political organization of Tlaxcala remained much the same as before the conquest. The “standard” *altepetl* of central Mexico was ruled by a *tlatoani*, but Tlaxcala was one of the well known entities that deviated from the model. In the case of Tlaxcala, it retained its political organization from pre-Hispanic times. Across central Mexico, *altepetl* took the form of municipalities but in this case a rotation of power continued. The concept of a city at the center of four *altepetl* was Spanish. Therefore, the city of Tlaxcala centralized the power of Tepeticpac, Tizatlan, Ocotelulco, and Quiahuiztlan. Since they had trouble identifying one head town to fit their model neatly, they had to accommodate the power of four *altepetl* for this emerging entity. Before the conquest, leadership rotated among the *tlatoani* from the constituent *altepetl*.

The Spanish-modeled town government accommodated the rotation of office. The duties included organization of labor for public works, construction of new buildings such as churches, organization of festivities, both royal and religious, and finally tribute collection. While the indigenous cabildo functioned rather autonomously, a Spanish

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<sup>57</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 231-233.

government oversaw its activities especially to ensure that tribute was collected. The viceroy, who represented the king in New Spain, was the highest ranking Spanish official. The hierarchy of native officials who were responsible for the duties was as follows. The gobernador, in addition to being the highest ranking and most important indigenous official, was the main link between the Spanish officials and the cabildo. For their purposes, the Spanish decided that the office of gobernador would be filled, every two years, by an indigenous leader from a different altepetl.<sup>58</sup> In legal cases, the gobernador was typically the person who voiced natives' complaints or was responsible for carrying out the viceroy's orders. The gobernador, four tlatoque, four alcaldes, and twelve regidores all deliberated and made decisions based on a majority vote, given that each altepetl contributed an equal number of representatives. In order to prevent influential nobles from undermining the new Spanish system, tlatoque were ineligible for the office of gobernador; they served as *regidores perpetuos*, councilmen for life.<sup>59</sup> Elections for the posts of gobernador, alcaldes, and regidores were held among a body of 220 electors who were noblemen. One or two electors from each town within the four altepetl made up this body which held elections every two years for gobernador and annual elections for alcaldes and regidores.<sup>60</sup> The officials at the bottom of the hierarchy, *teniente* (deputy), *alguacil* (constable), *mandón* (foreman), and *mayordomos* (custodians of communal property) had contact with native commoners on a daily basis.<sup>61</sup> For instance, when the cabildo decided on any aspect of tribute collection, these officials

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<sup>58</sup> Ibid, 107.

<sup>59</sup> Rebecca Horn, *Postconquest Coyoacan: Nahuatl-Spanish Relations in Central Mexico, 1519-1650* (Stanford: Stanford University Press, 1997), 58.

<sup>60</sup> Lockhart, Berdan, and Anderson, *The Tlaxcalan Actas*, 107-109.

<sup>61</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 117.

were the ones who went from town to town knocking on doors with lists of names to collect money and *maíz*.

The presence of Spaniards in native affairs was, of course, inevitable. The ever present *procurador general de indios* (legal representative and defender), *escribano* (notary), and interpreter were key officials in the lives and actions of the indigenous population. The procurador had to be a Spaniard as did the escribano, but the linguistic abilities of the interpreter took precedence over his heritage with Spaniards, natives, or mestizos filling that position. Gibson stated that they were “directly or indirectly associated with the Spanish government in Tlaxcala.”<sup>62</sup> Two governments functioned simultaneously, a council with Spanish officials and an indigenous one which was supervised closely by the former. He could not classify them neatly according to which cabildo they belonged because these officials moved back and forth between the town governments witnessing both sides of a critical underlying issue in Spain’s empire: legality. Natives fully exploited the freedom to seek justice in a court of law afforded by their status of *miserables*, or paupers. The procurador helped litigants who suffered abuses at the hands of indigenous officials or Spaniards prepare carefully argued cases. The escribano prepared legal documents for land sales and titles, depositions, censuses of tributaries, elections and court orders.<sup>63</sup> His signature was the requisite seal of approval needed to make the aforementioned activities legitimate regardless of who was involved. Finally, the interpreter bridged two cultures with his services in the cabildos and tribunals. Documents drawn up in either Spanish or Nahuatl had to be translated for the benefit of both sectors of the population. For instance, town criers announced translated

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<sup>62</sup> Ibid, 76.

<sup>63</sup> Ibid, 77 and Robert Haskett, *Indigenous Rulers*, 110.

cédulas and laws while indigenous cabildo proceedings had to be translated to Spanish. To the court, native litigants often rendered testimony in Nahuatl. Perhaps they were not bilingual or simply refused to risk miscommunication since their property or liberty was at stake.

Spain's inclination towards legality dated back to the thirteenth century when King Alfonso X, "el Sabio," implemented measures to establish uniformity in the legal system rather than depending heavily on custom for the outcome of cases. He pioneered the exhaustive legal code that became known as the *Siete Partidas* and, as Woodrow Borah points out, in 1348 Alfonso XI made another significant contribution designed to undermine the sole use of customs by setting "the order of precedence for categories of Castilian law."<sup>64</sup> The cultural diversity of the Iberian Peninsula hindered the process set in motion by Alfonso el Sabio. Christians, Muslims, and Jews carried on a tenuous coexistence since each had their own sets of customs and preconceived notions of what constituted justice. The consequential geopolitical fragmentation stymied royal efforts to enforce the adoption of Christian law. According to Borah, the *Leyes de Toro* proclaimed in 1505 accomplished what had eluded monarchs for centuries, a defined legal code accompanied by a declaration that royal laws supplanted existent *fueros* (special sets of laws of personal or regional application) and customs.<sup>65</sup> Significant changes on the peninsula had led to the marked intolerance that Muslims and Jews experienced in courts beginning in the late fifteenth century.

The reign of Queen Isabella and King Ferdinand ushered in a new era for Spain and profoundly influenced the course of events in the New World. In 1474 they each

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<sup>64</sup> Borah, *Justice by Insurance*, 8-9.

<sup>65</sup> *Ibid*, 9.

inherited kingdoms plagued by political struggles and internal factions. Therefore, they immediately embarked on an extensive campaign, lasting about twenty years, that involved major political, religious, and economic changes to establish peace.<sup>66</sup> Most notably, the Reconquista came to a conclusion under their leadership in 1492 with the surrender of the kingdom of Granada and the expulsion of Jews who refused to convert to Catholicism. *Convivencia*, or coexistence, granted to Muslims after Granada fell lasted a mere seven years because Queen Isabella agreed with the archbishop of Toledo, Francisco Jiménez de Cisneros, that the rate of conversions from Islam to Catholicism were happening at a slow pace.<sup>67</sup> The fateful year of 1492 was significant for two reasons: the domestic policies of the Catholic monarchs culminated efforts to gain control over their subjects and their decision to sponsor Christopher Columbus' voyage opened the door to an empire.

Nearly twenty years of effective rule gave Queen Isabella and King Ferdinand invaluable experience in their approach to the New World and its peoples. What is more, incessant conflict with Muslims over centuries had bilateral influences apparent in methods used to legitimate Spanish dominance. A strong belief in legality paired with ideas derived from Islamic law laid the groundwork for the *Requerimiento*, a speech recited by Spaniards to indigenous peoples upon contact. According to Patricia Seed, conquistadors "enacted [royal] political authority over the New World" with this binding speech, notwithstanding the language barrier that prevented natives from comprehending its terms and implications.<sup>68</sup> The *Requerimiento* ordered them to "recognize the church

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<sup>66</sup> Kamen, *Spain 1469-1714*, 15.

<sup>67</sup> *Ibid*, 36.

<sup>68</sup> Patricia Seed, *Ceremonies of Possession in Europe's Conquest of the New World, 1492-1640* (Cambridge: Cambridge University Press, 1995), 70. The legal procedures developed by one of the four

as lord and superior of the universal world, and the most elevated Pope” and “His Majesty in his place as superior and lord and king.”<sup>69</sup> Furthermore, it stated that they would not be coerced to become Christians, however, if they chose not to convert voluntarily, war would be the result. The speech, written by Juan López Palacios Rubios in 1512 in response to scathing criticisms from Dominican friars, single-handedly subjected natives to Spanish rule thus pacifying issues about how the crown was establishing its authority.<sup>70</sup> The Spanish adeptly used a legal document to assert their legitimacy in the New World. However, the colonial period would be a trying time for the crown as its subjects would gain protection under that same legal system.

As the wealth of the Americas poured into the royal treasury at impressive rates a debate loomed over the expanding empire. The conflicting need to protect indigenous peoples from exploitation, lest they suffer the fate of natives in the Caribbean, while simultaneously extracting the most labor and tribute humanly possible created the conundrum of how to treat them. Clergymen from both sides of the Atlantic argued passionately about whether or not to rapidly Hispanicize natives, and if that was the solution Castilian law would govern.<sup>71</sup> The imposition of law was successful after the conquest; however, indigenous culture was not rapidly superseded by Spanish culture. The supremacy of Castilian law in New Spain did not follow the strict protocol of the *Requerimiento* nor did it embody an airtight logic for the assertion of power.

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traditions that branched out from Sunni Islam, *Mālikī*, were more influential than the others. Seed points out that “its emphasis on a legal ritual for initiating a jihad (a summons), and its liberal treatment of defeated peoples” heavily influenced the *Requerimiento*.

<sup>69</sup> Ibid, 69.

<sup>70</sup> Ibid, 72.

<sup>71</sup> Borah, 28-29.



Naturally, Spain extended its rich legal tradition to its colonies although it was imbued with arguments that bolstered the camp of thinkers in favor of protecting natives. As a whole, certain aspects of Spanish legal rhetoric favored colonized peoples in the Americas. Roman law heavily influenced the Iberian peninsula thus emperors and monarchs afforded “widows, orphans, and the wretched in general” legal protection; nevertheless, the Church expanded the classification of *miserables* to include pilgrims, poor and ignorant country folk, minors, captives, the Church, clergy, persons serving them, the city, prostitutes, students, public penitents, exposed infants, the aged, the blind, those in jails, soldiers, prodigals, and people married in name only.”<sup>72</sup> Christianized natives eventually joined the ranks of *miserables* in the midst of pressures beyond the control of Spanish administration. The nature and extent of colonial abuse was detailed in a subsequent torrent of litigation. As if this did not contradict the essence of subjugation sufficiently, the crown had to contend with allies' sense of entitlement, especially Tlaxcala's, to royal favors and exemptions in return for their alliance.

The establishment of the Juzgado General de Indios, or General Indian Court, in 1592 was a watershed moment because it provided the legal muscle needed to carry out the protection of natives propagated by colonial discourse and granted by the New Laws of 1542. The first viceroy of New Spain, Antonio de Mendoza who took office in 1535, identified the pressing need for a solution to the accumulating volumes of cases dealing with abuses against natives. He pioneered the idea of setting up a distinct jurisdiction, with the viceroy as its highest authority, in order to expressly address those cases.<sup>73</sup> This enabled the viceroy to directly receive natives' lawsuits, investigate their claims, and

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<sup>72</sup> Ibid, 12.

<sup>73</sup> Ibid, 65.

swiftly deliver an enforceable administrative decision.<sup>74</sup> The new process alleviated the expensive legal fees that natives had to pay and drastically reduced the duration of cases.

Mendoza's idea was novel as much as it was practical. But for all of its functional qualities, problems with judicial and administrative power abounded because the audiencia was unwilling to surrender all discretion to the viceroy in determining which of those two categories cases fell into. Also, having a new jurisdiction for natives involved his appointment of judges and other officials, another issue open to dispute.<sup>75</sup> Borah pointed out that money was the source of contention creating the hurdles faced by Viceroy Mendoza and his successors since revenue, in the form of legal fees, was at stake.<sup>76</sup> Luis de Velasco II took office in 1590 and two years later he set up the Juzgado General de Indios thus solving bureaucratic, legal entanglements.

After Mendoza's term ended in 1550, a total of eleven viceroys followed Luis de Velasco's term, including his father who served as the second viceroy of New Spain. Towards the end of the sixteenth century an alarming drop in population was the impetus for classifying natives as miserables despite the reluctance to place them under the same legal umbrella as Spaniards. The legal precept had been that plaintiffs (presumably natives) could only bring Spaniards to justice in Spanish courts. This rule was advantageous to the defendants (Spaniards).<sup>77</sup> This change in the legal panorama gave Velasco an edge in his creation of the Juzgado which had as its sole purpose to protect

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<sup>74</sup> Ibid. The viceroy was also the president of the audiencia; therefore, he possessed the authority to classify cases as either judicial or administrative. He used this decision-making power to create the jurisdiction for native litigation, excluding criminal cases, and to settle cases in a short period of time.

<sup>75</sup> Ibid, 74.

<sup>76</sup> Ibid, 75-76.

<sup>77</sup> Ibid, 83.

the dwindling population on which the colony depended in earnest. It could also serve to streamline the process and move litigation out of the Audiencia.

Despite any advantages that Velasco may have been in a position to capitalize on, he had to act using his legal acumen and keen judgment. Among the most difficult changes the viceroy had yet to secure from the king were executive power, the right for natives to be plaintiffs (in other words sue Spaniards), and he had to resolve discontent about revenue related to fees for native litigants. In October 1590 Velasco wrote the first of three letters to King Philip II carefully laying out his arguments. The former suggested that all cases except criminal ones be handled by the viceroy. The reason was to process cases summarily “by administrative procedure” thus eliminating time consuming proceedings and fees.<sup>78</sup> Velasco invoked the precedent established by King Charles V in 1534 when he declared that specified civil suits be shortened.<sup>79</sup> Undoubtedly, the implications of expanded powers for the viceroy unsettled the king, however, Velasco’s undertakings with the Juzgado General offered long term solutions for New Spain, an offer he could not refuse.

In his second letter, dated September 1591, the viceroy argued further for the right of natives to be plaintiffs. Spaniards seemed to be the aggressors in nearly every aspect of colonial life; in fact, founding the Juzgado was meant to relieve the native population from those abuses. Having been granted jurisdiction of civil cases, Velasco now requested that all cases in which natives were plaintiffs or defendants fall under his jurisdiction.<sup>80</sup> A clear response was not forthcoming from the king. Therefore, the

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<sup>78</sup> Ibid, 92.

<sup>79</sup> Ibid, 14. Suits involving debts of 1,000 maravedís or less fell under this abbreviated procedure.

<sup>80</sup> Ibid, 96.

solution was rather practical: the Juzgado would address cases against Spaniards because the viceroy reclassified them as “administrative matters.”<sup>81</sup> And with that momentous decision the voices of indigenous subjects made themselves heard and the daily occurrences of colonialism were uncloaked.

The viceroy had to tread a fine line between his creation of the Juzgado and the existing administrative hierarchy if he expected the former to function properly. He ensured natives’ access to legal action by eliminating fees for them because their susceptibility to extortion was overwhelming. However, this decision did little to quell conflicts between two secretariats, those of *gobernación* and *cámara*. There had been a power struggle over jurisdiction of indigenous litigation between the viceroy and the audiencia during Antonio de Mendoza’s tenure since neither secretariat, *gobernación* was under the viceroy and *cámara* was under the audiencia, wanted to lose revenue generated by fees.<sup>82</sup> If his vision was to become reality, Velasco needed to find a middle ground for both parties. Therefore, he solved the problem with the allotment of fixed annual salaries for the four secretaries involved, two payments of 1,000 silver pesos apiece for *gobernación* and two of 650 apiece for *cámara*.<sup>83</sup> The legal arena for the natives of New Spain was finally brought to fruition by the viceroy and its operation depended on them. Velasco was cognizant of the financial burden they bore thus the half-real contribution, which supported the Juzgado, came from the two *reales* that tributaries already paid annually for community expenses.<sup>84</sup> Beginning in 1592 natives had an institution at their

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<sup>81</sup> Ibid, 105.

<sup>82</sup> Ibid, 75.

<sup>83</sup> Ibid, 103.

<sup>84</sup> Ibid, 104-105. Unfortunately, tributaries eventually paid two and a half reales for community expenses since the half-real payment was added rather than subtracted.

disposal with which to protest the overarching implications of the Requerimiento. Spain had granted itself control, but this court would help natives try to define and negotiate that control at a local level.

When indigenous litigants sued colonial officials and Spanish civilians the viceroy usually awarded an *amparo*, or writ, which Borah defined as “an administrative or judicial order guaranteeing protection in the enjoyment of some right or privilege” accompanied by orders for officials to either render a petitioner protection or to carry out their duties in order to help plaintiffs.<sup>85</sup> Andrés Lira González’s study about modern day *juicio de amparo* in Mexico examines its colonial origin regarding how amparo was used and who resorted to its use. Both Borah and Lira González found that viceroys issued an overwhelming number of amparos for the purpose of protecting natives from abuses. The latter pointed out that the writs protected a petitioner from someone who held a higher social status.<sup>86</sup> The veritable mountain of cases piling up in the Juzgado was symptomatic of the fact that the amparo protected litigants against a specific injustice rather than explicitly establishing their rights.<sup>87</sup> In other words, an injustice had to occur first and then natives could seek remedy in court. Furthermore, the principle of precedent was not applicable; only cases involving the same parties in prolonged disputes were relied upon for future decisions.<sup>88</sup> The potential for enrichment from legal fees, foreseen and counteracted by Viceroy Velasco, is evident in the individual case by case proceedings that natives had to follow. Their status as royal subjects was irreversible but

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<sup>85</sup> Ibid, 53 & 439.

<sup>86</sup> Andrés Lira González, *El amparo colonial y el juicio de amparo mexicano (Antecedentes novohispanos del juicio de amparo)* (México: Fondo de Cultura Económica, 1971), 7.

<sup>87</sup> Ibid, 24.

<sup>88</sup> Ibid, 54.

to a certain extent they had some control over everyday experiences. If that meant a financial risk to seek justice, natives made the trip to Mexico City to get a court order which might help them fend off aggressors.

Without precedent and constant exploitation, thousands of natives made their way to the capital with the hope of acquiring an amparo. Owensby pointed out that their efforts were not futile. He concedes that corrupt officials could (and did) obstruct justice, however, certain rules made it more difficult for that to happen. For example, when the court made a decision and dispatched orders to the parties involved, the local justices were accountable to the viceroy.<sup>89</sup>

The Tlaxcalan lawsuits reflect power struggles, at every level of society, against the royal dictates of the appropriation of tribute and labor and Spaniards who felt entitled to indigenous labor. Tlaxcalans were subjects, thus they had certain unavoidable duties. The nobility secured exemptions from some service, but maceguals constructed churches, monasteries, Spaniards' houses, and public buildings. Legal cases make it amply clear that labor exemptions granted after the conquest failed to materialize. In Tlaxcala three labor systems operated simultaneously to meet the growing demands of the empire: *repartimiento*, *obrajes*, and *servicio personal*.

Many places in central Mexico had the institution of the *encomienda*, the labor of natives was given as a grant to the Spanish. Although this region did have slaves, their numbers were not significant enough to constitute a labor force. Royal law forbade the enslavement of natives. Therefore, the solution was to grant Spaniards the labor of indigenous peoples for an allotted time provided that religious instruction was adequately

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<sup>89</sup> Owensby, 85.

provided.<sup>90</sup> Its role as an ally spared Tlaxcala from that institution. According to Baber, the fact that the nobility entered into dialogue with the crown showed that "native people could rationally manage their own affairs."<sup>91</sup> The exemption was indeed a favorable sign for Tlaxcalans. Less contact with Spaniards characterized the few places granted freedom from the *encomienda*; Tlaxcala, for example, was directly under the crown's rule.<sup>92</sup>

*Repartimiento* was a rotational system used to provide the manpower necessary for projects that could take years, even decades to complete. In other parts of New Spain mining regions benefited immensely from labor drafts, but in this case cities such as Puebla, which was predominantly Spanish, looked to Tlaxcala for help in building its numerous churches. *Repartimiento* was Spanish in origin, but *coatequitl*, the pre-Hispanic practice of draft labor, accommodated the demand for labor with a minimal chance of rebellion.<sup>93</sup> Nevertheless, native officials and macehuales challenged the new version of the draft because there was a critical difference between both systems. Before the conquest natives were not required to perform labor outside of their resident *altepetl* whereas the Spanish sent them to work in distant places.<sup>94</sup> Legal cases contain repeated complaints of scarce food provisions, inadequate shelter at night, and neglected crops as a result of long distances and prolonged duration of *repartimiento*.

The numbers of macehuales needed for *repartimiento* often exceeded those available or willing to take part in the labor rotation. In the spring of 1549 the indigenous

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<sup>90</sup> Simpson, *The Encomienda in New Spain*, 8-9.

<sup>91</sup> Baber, "Empire, Indians, and the Negotiation for the Status of City in Tlaxcala, 1521-1550," 24.

<sup>92</sup> Lockhart, Berdan, and Anderson, *The Tlaxcalan Actas*, 1.

<sup>93</sup> Gibson, *The Aztecs Under Spanish Rule*, 222.

<sup>94</sup> Rik Hoekstra, *Two Worlds Merging: The Transformation of Society in the Valley of Puebla, 1570-1640* (Amsterdam: CEDLA, 1993), 129.

cabildo accomplished the task of gathering three hundred natives for the duration of two months worth of labor for the construction of the city gates, the plaza, or main square, and houses. Once that time period expired, the remaining one hundred had to be gathered in order to reach the original quota of four hundred. Social status determined who was entitled to an unspecified number of macehuales. The *pilli*, or nobles, and other elite Tlaxcalans simply described as "ricos," or wealthy, received preference to hire labor whereas merchants were barred from such an opportunity. Only wealthy Tlaxcalans who already had macehuales under their control were denied additional labor.<sup>95</sup> According to the stipulations of the labor arrangements, two regidores bore the responsibility of overseeing the payment of half a tomín per day to macehuales and the equivalent of this was due even if payment was made in cacao.<sup>96</sup> Wage labor was a feature of the colonial economy that contrasted with the communal rotation of labor in pre-Hispanic times. The implied incentive was that natives would have the freedom to choose where or for whom to work, but it was weak because macehuales did not have much of a choice as to whether or not they performed labor and for whom. Some of them remained under the control of upper class Tlaxcalans as evidenced by the cabildo's insistent disclaimer that withholding macehuales from "the service of the city" would result in the loss of "their macehualli."<sup>97</sup> Evidently social status granted a few the entitlement to labor, thus sparing them from the intense competition that existed for macehuales workers. The resistance to labor was rooted in the disruptions caused by extensive draft labor that included

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<sup>95</sup> Eustaquio Celestino Solís, Armando Valencia Ríos, and Constantino Medina Lima eds., *Actas de Cabildo de Tlaxcala 1547-1567* (Mexico City: AGN: Instituto Tlaxcalteca de la Cultura: CIESAS, 1984), 259.

<sup>96</sup> Ibid, 260.

<sup>97</sup> Ibid, 261.



abandonment of crops and personal property such as houses, poor labor conditions, and illness.

The rudimentary wage labor market that natives were "encouraged" to participate in was limited by a conflict of interests. The cabildo was on a stringent schedule to accommodate both types of labor. In November 1549, four tlatoani needed their houses to be built but they had to wait until December. The minutes clearly state that the month of November had to expire before 100 "indians who hire themselves out" could gather for the purpose of constructing the houses.<sup>98</sup> In this particular instance officials did not explain what other responsibilities prevented construction in November. However, an agricultural timetable guided the lives of Tlaxcalans as it did other natives in central New Spain. The months of August through November were critical for crops since the fall was harvesting time.<sup>99</sup> To deal with labor issues was a balancing act for cabildo officials. The harvests of natives yielded corn for tribute while repartimiento and waged labor made any type of construction possible, for Spaniards, nobles, or the clergy. The Spanish empire needed both equally.

In the fall of the following year, October 1550, officials suspended labor in Tlaxcala for a month thereby granting only "a few" permission to work. The least interference possible was of utmost importance because plowing land was in progress and "in all parts of Tlaxcala" there would be harvesting of crops. Two alcaldes, Juan Jiménez and Pablo de Galicia, had to travel to different parts of Tlaxcala to supervise the weeding of farm land belonging to both nobles and macehuales.<sup>100</sup> Preparations for agricultural

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<sup>98</sup> Ibid, 270.

<sup>99</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 152.

<sup>100</sup> Celestino Solis et al., *Actas de Cabildo de Tlaxcala 1547-1567*, 312.

activity took priority over need for labor. Officials had precise instructions to limit the numbers of natives carrying out labor or to suspend labor until farming had been completed.

Agriculture determined the pace of labor when a complete halt was not feasible. During the mid-sixteenth century Tlaxcala was taking shape as the colonial city that Spaniards wanted to build over the existing altepetl. Incalculable hours of human labor dotted the landscape with churches and monasteries. In 1567 the cabildo anticipated the visit of an unnamed Spanish architect who was going to inspect some sites designated for monasteries. After that, another unnamed Spaniard who they simply referred to as "the expert in constructions," would presumably oversee the actual construction in exchange for compensation from the city of Tlaxcala.<sup>101</sup> Building projects of that magnitude could only be built with repartimiento. The plans agreed upon by officials contained negotiations that accommodated farming. On average, 200 macehuales performed labor for the city at a given time. However, only half of that number would be distributed for the monasteries because the other one hundred had previous arrangements to work in the churches of their jurisdictions.<sup>102</sup> The pace of the construction was to be slow, deliberately, because of responsibilities such as planting, plowing, and harvesting. Gradually, and "gustosamente," macehuales would take on the different types of labor. There was a slight implication that the pace of labor had to meet the approval of natives. Like the speed of completion, the size of the churches and monasteries likewise had to adjust to the human resources available. They had to be moderate in size, "not too big like the ones started in Topoyanco and Atlahuetzta." Houses for clergymen would be a

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<sup>101</sup> Ibid, 421.

<sup>102</sup> Ibid, 421-422.

few because only two or three priests would reside there. Finally, officials had to distribute labor evenly to the simultaneous construction projects.<sup>103</sup>

Other reasons why macehuales occasionally enjoyed a respite from labor included religious holidays, such as the forty days of Lent, and Sunday mass. The cabildo convened in January 1550 to formally demand that natives be relieved of any labor duties because of Lent. The purpose behind suspension of work was for natives to go confess and attend mass services. According to the cabildo, "natives will only occupy themselves with matters pertaining to their souls."<sup>104</sup> Ecclesiastical institutions in New Spain embodied the justification of Spain's conquest. Therefore, even a necessity such as labor had to take a backseat to religious observance. After all, the crown regarded natives as lesser beings in need of guidance to ensure eternal salvation.

The church made exceptions, but the fact that natives were indebted to it for salvation and moral standards *also* came through in labor issues. The role of religion at times assured free labor for constructing churches and monasteries and that privilege extended to clergymen who later assumed leadership of those institutions. The cabildo convened in April 1567 to address the costs of construction. Viceroy Gastón de Peralta, Marquis of Falces, determined the sources of funding and the Spanish alcalde mayor Constantino Bravo de Lagunas passed on the information. Half of the money to pay for the labor would come from the royal treasury and the other half from the Tlaxcalan treasury. The collective response of the cabildo was as follows: "there is no reason to pay those who will work on the project of the churches because it is for them to hear mass

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<sup>103</sup> Ibid, 422.

<sup>104</sup> Ibid, 292.

and so the holy sacraments can be administered to them."<sup>105</sup> The cabildo reiterated its decision and added that macehuales did not need compensation because they would "learn the holy Catholic faith with which they will worthily serve our Lord and our tlatoani king."<sup>106</sup>

As intermediaries in the colonial chain of command, indigenous officials played into the piety presupposed and desired by the crown. Nevertheless, they make a telling admission after their exaltations of loyalty to church and king. The other reason why there would be no wages was because "the assets of the republic are insufficient, there is only spending on ornaments for all of the monasteries in Tlaxcala, and also on the food for the priests and the altepetl has spent money on their petitions."<sup>107</sup> The cabildo had practical reasons for avoiding the disbursement of funds but conveniently fell back on the significance of the Catholic church. The nature of repartimiento, which was an obligatory service, gave officials freedom to appropriate labor in a manner they saw fit. As noted above, priests enjoyed free food and the labor for their dwellings was also free. Macehuales had to build a house for the bishop of Tlaxcala, Don Fray Martin de Hojacastro, without any payment.<sup>108</sup> In 1550 Dominican friars approached the city council with a letter signed by the "tlatoani virrey" stating their right to obtain "macehualli who rent themselves out" with compensation set at a "cuartilla," one fourth of a fanega, presumably of maize.<sup>109</sup> A recurring issue in meetings are the macehuales' responsibilities that fell by the wayside because of labor distribution. Just as officials

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<sup>105</sup> Ibid, 421.

<sup>106</sup> Ibid.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid, 262.

<sup>109</sup> Ibid, 289.

were at the forefront of deciding the fate of macehuales for repartimiento, which could extend over a couple of months, the latter occasionally wrestled control from the former.

A chronic headache for officials, both Spanish and indigenous, was the indigenous avoidance of labor. Macehuales tried to escape labor demands by claiming a higher status on the social hierarchy. They declared themselves members of the upper strata of pilli, who were exempt from labor. The first item of business for the cabildo in June 1550 was the alarming actions of macehuales who had managed to successfully evade the labor due small, dependent churches known as hermitas. Armed with a new declaration of social status, members of the lower class "established themselves among the people of the city." The cabildo went on to state, "Because of this, they no longer collaborate in the work that is carried out in Tlaxcala."<sup>110</sup> Officials ordered the ouster of these macehuales posing as pilli from the city so that they could perform all labor thus accusing them of vagrancy. Officials believe the abandonment of labor resulted from fear which led to hiding. However, the alcalde ordinario, Juan Jiménez, was entrusted with conducting a thorough search, finding the macehuales, and ensuring the fulfillment of labor duties. Unsurprisingly, labor in the hermitas was to begin immediately when officials found the pretend *pilli*.

Indigenous labor had a difficult time dodging the watchful eye of the cabildo because the records that officials compiled accounted for nearly every person owing labor to Tlaxcala, or more accurately, to the crown. All macehuales had to report to a given location for the purpose of being counted. In 1550 the cabildo appointed the important

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<sup>110</sup> Ibid, 301.

duty of collecting data on all of the labor that had to be performed in Tlaxcala to Antonio Zocuillacatl.<sup>111</sup> Numerous projects in the city spread labor thin. Therefore, a ratio of projects to available macehuales was necessary. Two officials from each of the four altepetl had to direct labor to the specified location for delivery to Zocuillacatl. From there, he would give labor assignments with less danger of people hiding to avoid work.

The cabildo ordered the direct supervision of work, or *tequitl*, in order to hamper any irregularities and to be accountable for the actions of macehuales. Cabildo officials such as the alcalde and the regidores had the responsibility of knowing "how workers are distributed, where they are going, what they do."<sup>112</sup> The specified officials in each of the four altepetl of Tlaxcala, Tizatlan, Ocotelulco, Quihauiztlan, and Tepeticpac, had to supervise labor when its turn came. A combination of mandatory supervision from the cabildo and the macehuales' marginal existence on the last rung of the social ladder ensured protection of the interests of the pilli.

Towards the late sixteenth century the many demands on labor of Tlaxcala took a toll on the privileges of the upper class. On September 23, 1560 the cabildo's meeting opened with complaints of the affliction of the "when the governance of Tlaxcala began, the misery of the tlatoani and pilli who have maceualli began."<sup>113</sup> In reality the beginning of the colonial period caused the disruption and hence the "misery" of the upper classes. According to officials, macehuales dedicated themselves exclusively to constructing the city which was a burdensome amount of labor. They cited this as the cause of "impoverishment" of the tlatoani and pilli because nobody constructed their houses.

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<sup>111</sup> Ibid, 302.

<sup>112</sup> Ibid, 348.

<sup>113</sup> Ibid, 387.

Macehuales were also afflicted because they were unable to plow their land to cultivate crops. The cabildo conversed and resolved that macehuales should no longer perform the labor but should instead dedicate themselves exclusively to the work owed to the people they depended on.<sup>114</sup> These concerns demonstrate the rejection of the secondary role that the indigenous elite occupied in the late 1500s. A few days later, on September 27, a more formal agreement was presented as a solution to the loss of labor. A set number of macehuales were to be excused from labor for the purpose of accommodating the upper class. However, there was one condition: the pilli had to trace their noble lineage back to one of the "casas señoriales," to one of the four altepetl to be eligible for this labor. The names of those who could satisfy the requirement were written down and given labor. In return, the cabildo expected the pilli to obey any orders given by the gobernador and the alcaldes.<sup>115</sup> The nobility, in their roles as mediators, refused to relinquish their status (and Nahuatl titles) based on years of tradition before the Spanish unwittingly changed the course of history. Their autonomy functioned as a tool preventing outright rebellion while simultaneously allowing the nobility to implement previous customs and privileges.

The second labor system, *obrajes*, or textile shops, flourished in central New Spain, including Tlaxcala, due to the introduction of sheep. The demand for domestically produced textiles was high because imported cloth was a luxury good. For instance, the cost of imported cloth from Segovia, Spain was eleven pesos and 4 reales per vara whereas cloth produced domestically cost significantly less, two pesos and 2 reales per

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<sup>114</sup> Ibid, 388.

<sup>115</sup> Ibid, 389.

vara.<sup>116</sup> As was often the case, coerced natives comprised the workforce of obrajes to produce mostly coarse woolen textiles such as *paños[de rebozo]* (shawls), *sayales* (sackcloths), *frizados* (friezes), *jergas* (serges), and hats. Some were criminals who had been ordered to serve their sentences performing compulsory labor as harsh punishment, but a myriad of evidence suggests that indigenous people who did not commit crimes unwillingly served in obrajes. The viceroy condemned apprehension of men and women for labor purposes except if they had committed an offense.<sup>117</sup> Another tactic of obrajeros consisted of preying upon people in the local jail who were accused of wrongdoings but had not been given a labor sentence to carry out. Therefore, Tlaxcalans who were incarcerated or had criminal charges filed against them ran the risk of being targeted for obraje labor.

Charles Gibson's assertion that indigenous workers willingly entered into contracts with obrajeros in exchange for a salary deserves attention. Labor in these sweatshops was indeed supposed to be voluntary waged labor, however, this was rarely the case. The so-called contracts obligated natives to serve, but once the term of service expired exiting an obraje turned into a nightmare *and* a legal battle. Authorities found a familiar pattern: natives signed "contracts" in order to earn a wage but found themselves at the mercy of obrajeros when they tried to leave. If they escaped, the contracts enabled the owners to acquire and dispatch a *carta de justicia* in order to have local authorities hand over natives who supposedly breached contracts. These documents, literally letters

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<sup>116</sup> Richard J. Salvucci, *Textiles and Capitalism in Mexico: An Economic History of the Obrajes 1539-1840* (Princeton: Princeton University Press, 1987), 39.

<sup>117</sup> Archivo General de la Nación México (cited hereafter as AGN) Indios Volumen 4, Expediente 861: foja 233 (hereafter AGN Indios 4-861: f: 233).



of justice, enforced judicial orders from other jurisdictions.<sup>118</sup> In other words, officials could pursue natives no matter where they fled. Even worse, responsibility for the fees incurred by the search fell on the workers thus increasing debts already owed.<sup>119</sup> The use of force characterized the production of woolen textiles in Tlaxcala whether obrajeros hid and locked up workers, provoked indebtedness, or forced them to serve since childhood. A scarce labor supply prevented the existence of a market for free waged labor suggested by Charles Gibson. Colonial society had a significant demand for cloth, Richard Salvucci argued, but obrajes bore the brunt of making a market function smoothly without a corresponding labor force.<sup>120</sup> Hence, obrajeros tried to secure labor using drastic methods. Unfortunately for the indigenous population, there was a third labor institution adding to the mounting pressure, *servicio personal*.

The role of allies during the conquest assured Tlaxcalans exemption from *encomienda*, one of the few royal privileges honored by the crown during the colonial period. Nevertheless, if the Tlaxcalan nobility envisioned a different, less exploitative experience compared to other populations in New Spain, they were mistaken. Like obrajes, the need for food created a high demand for labor *and* also characterized coercion as the Spanish population increased in surrounding towns and cities such as Huamantla and Puebla respectively. The unraveling of the *encomienda* in nearby places would create another labor institution that put Tlaxcalan labor within full grasp of Spaniards, which they took advantage of predictably. The Spanish competed fiercely for *encomienda* grants because of its impracticality; it limited the recipients of native labor.

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<sup>118</sup> Borah, *Justice By Insurance*, 440.

<sup>119</sup> AGN Indios 10-227:f.125.

<sup>120</sup> Salvucci, *Textiles and Capitalism in Mexico*, 61.

By the mid 1500s, the encomienda had generated enough conflict in the Valley of Mexico to cause the crown to find alternative ways of distributing labor among Spaniards.

The founding of the city of Puebla de los Angeles for Spaniards in 1531 began as a dual experiment. First, the development of a temporary labor draft known as *indios de servicio* was to slowly transition Spaniards from dependence on natives to self-reliance by means of "an all-Spanish agricultural community" over the course of six to ten years.<sup>121</sup> The second purpose was to have Spaniards living "far enough from existing Indian settlements to guard Indian lives and property but close enough to discourage Indian rebellion."<sup>122</sup> Spaniards failed to become independent farmers and there was no rebellion that merited the close proximity of Puebla de los Angeles to Tlaxcalan settlements. Under the new draft, Tlaxcala provided 800 natives weekly in exchange for exemption from the annual royal tribute of 8,000 *fanegas* of *maíz* and Cholula contributed 600 natives in exchange for relief from tribute as well.<sup>123</sup> Thirty natives served a Spanish head of household each week for a period of three months and the proper social status and benevolence toward the natives could secure an additional twenty for agriculture.<sup>124</sup> The *indios de servicio* officially ended in 1545, double the time originally anticipated that it would take Spaniards to master self-subsistence. But their sense of entitlement to indigenous labor was unabated and the institution itself persisted despite the 1543 *cédula* that dictated its termination.<sup>125</sup> Demands for *servicio personal*, or

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<sup>121</sup> Julia Hirschberg, "An Alternative to Encomienda: Puebla's *Indios de Servicio*, 1531-1545," *Journal of Latin American Studies* 6, no. 2 (Nov. 1979): 242, 245.

<sup>122</sup> *Ibid.*, 243.

<sup>123</sup> *Ibid.*, 246.

<sup>124</sup> *Ibid.*

<sup>125</sup> *Ibid.*, 257.

personal service, as it became known, plagued Tlaxcalans until the late seventeenth century.

Four years after the "official" end of *servicio personal*, it was as if that labor institution had not ended since the Tlaxcalan cabildo still found itself having to deal with the labor demands of Puebla de Los Angeles. The year 1549 began with deliberations about a request from Pueblan officials to extend the time period of service. As of January 11th, macehuales from Tlaxcala had completed service but Los Angeles was in dire need a three month extension. Officials recognized that the fulfilled term of service had been entered upon agreement in the presence of the tlatoani and the viceroy, Don Antonio de Mendoza. The Spanish corregidor, Diego Ramírez, the gobernador, and alcaldes unanimously rejected the proposal because of "the suffering and hunger" they experience when they work in Puebla.<sup>126</sup> Officials also cited affliction because the men worried about the women they left behind and their children. Their priority was their own city which was still undergoing construction and repairs. Puebla's demands caused a tug of war over macehuales that prompted Tlaxcalan officials to take measures of protection against them.

Diego Ramírez, the gobernador, alcaldes, and regidores appealed to the highest echelon of the colonial government to in hopes of ending the dependence spawned by *servicio personal*. In early November 1549 the corregidor traveled to Mexico City to plead their case before the viceroy and an oidor. Ramírez received the final decision on the matter in the presence of the viceroy, Licenciado Santillán, Bishop Don Fray Martín de Hojacastro, and clergyman Diego de Olarte. All 300 macehuales had to be in

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<sup>126</sup> Ibid, 256.

Tlaxcala, not elsewhere, because their duty was in that city. The cabildo lauded the decision to which they added, "every year the macehualli will rest three times for the duration of a month, none will work during times of cultivation."<sup>127</sup> But tensions between Tlaxcala and its neighbors only became more acute as time went by.

Four decades later the very people whose labor was fought over and negotiated entered the legal arena in order to make good on what the crown had promised in terms of exemptions. In June 1589 macehuals and principales from Tlaxcala litigated collectively against labor abuses. The case begins with the transcription of a royal order granted in 1585 prohibiting labor both in the Valley of Ajusco and in Puebla de Los Angeles. The plaintiffs testified that more than six hundred natives weekly were forced to perform labor without any compensation in places outside of Tlaxcala. The people who made such arrangements and pocketed a profit were officials, the gobernador, alcaldes, and regidores. This situation took a toll on the native population because macehuals suffered bad treatment, did not have enough food, and fell ill and died.<sup>128</sup> Power was a double-edged sword for the cabildo. They played the role of protectors and in cases such as these, macehuals fell victims to greed by participating in the abuse. The wealth of Spaniards in Puebla failed to forge the desired economic independence which originally fueled the *servicio personal* experiment. What it ended up happening was that it generated a need for macehual labor year round and as this case illustrates, the wealth in Puebla made labor arrangements possible.

Inequality and exploitation characterized labor relations in Tlaxcala during the sixteenth century. A complete reversal did not occur later in the colonial period, but

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<sup>127</sup> Ibid, 265.

<sup>128</sup> AGN Indios 5-574: f: 228 v.

there are more records documenting the views and voices of macehuales in terms of who exploited them and the protection and compensation they demanded, especially in court. The Spanish legal system with its plentiful lawyers and scribes would help more and more indigenous litigants sue their exploiters in the legal arena. Natives, elite and non-elite, would put to the test the legal rhetoric infused with ideas of protection and freedom.

The cabildo would also try to make the rhetoric of the privileges granted by the crown a reality when it came to tribute. Its remittance was the responsibility of the king's subjects which included Tlaxcalans, however, they would try to gain special considerations based on their alliance during the conquest. When native officials found that they met with resistance, they formulated arguments about population counts.

## Chapter Two

### Tribute and the Struggle for Privileges

On March 3, 1599 members of the Tlaxcalan cabildo asked for their release from the jail in Cholula in neighboring Puebla. Spanish officials incarcerated them because they had an outstanding debt to the crown for tribute arrears to the tune of 21,599 pesos. They argued for their release eloquently, albeit pressingly, because in their minds the status of Tlaxcala was unlike any other part of New Spain. The tribute under question was the *servicio de tostón*, one-half peso per indigenous tributary, owed to the crown annually for the support of Spain's wars in Europe. The cabildo reminded the king that Tlaxcala was obligated to pay the tribute for two years only due to their role in the conquest and pacification of part of northern New Spain. Diseases diminished the population with "continuous pestilence and illness," thus making the collection of tribute nearly impossible.<sup>129</sup>

By the turn of the century Spanish monarchs were familiar with the sentiments of their old allies. Throughout the 1500s the nobility claimed the privileges promised during the conquest with some success if only on paper. The purpose of this chapter is to explain how tribute was collected before the arrival of the Spanish, the types of tribute imposed after the conquest as well as the amounts due, and the legal struggles that resulted from the nobility's interpretation of their role as allies, which they felt had been overlooked, and of royal cédulas granted in their favor. Tribute was significant because early in the colonial period the Tlaxcalan nobility tried to avoid it altogether. When that

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<sup>129</sup> AGET, caja 9, 1599, exp. 4, ff. 7v-9 in Carlos Sempat Assadourian and Andrea Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI* (México: Consejo Nacional para la Cultura y Artes, 1991), vol. 6, 294-295.

did not work, a tug of war ensued in which the cabildo argued that the amount of tribute requested by the crown was unreasonable because the population had decreased significantly. According to them, the amount was impossible to collect from the native population that had survived conquest and epidemics. Native officials resorted to the legal system in order to reap benefits from having helped Cortés. Tlaxcala had after all avoided the *encomienda*.

Although the Spanish conveniently borrowed the institutional structures already in place to impose their power, the resistance from both the cabildo and the native population to paying tribute was a response to the loss of power under colonial rule. Time and again demographic decline was a source of bitter dispute in terms of how much they could pay. The nobility quickly learned that the legal system was the route to obtain validation for their claims. After all, the crown had used that method to justify their colonization of the New World. However, the Tlaxcalan nobility soon found that a double standard existed; the expediency with which the king of Spain anticipated enforcement of his laws in New Spain was hardly the norm when his subjects either argued a particular case or accomplished a legal victory.

A strict social hierarchy governed pre-Hispanic society where those who held political power also controlled how commoners cultivated land. Agricultural production yielded a significant portion of the foodstuffs collected as tribute by nobles holding titles such as *tlatoani*, *tecuhitli*, and *pipiltin*.<sup>130</sup> The nobility represented a range of power and

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<sup>130</sup> Carmen Aguilera, *Tlaxcala: Textos de su historia. Los orígenes antropología e historia* (México: Consejo Nacional para la Cultura y Artes, 1991), vol. 5, 100-107. The author argues Tlaxcalan society was stratified into two groups, first the government, composed by *tlatoani* and *tecuhitli*, and second society, composed by *pipiltin* and *macehualtin*. However, when the author discusses the different levels of government, the *pipiltin*, or nobles, are also included because this group aspired to become *tecuhitli* and had the lineage required to do so.

wealth in Tlaxcalan society with one common attribute: the right to demand tribute from the macehuales working on their lands. Alonso de Zorita, a Spanish judge, wrote an account of how the Spanish implemented their demands for tribute and labor. A little over thirty years had gone by when he experienced New Spain firsthand. No doubt the conquest was freshly etched in the minds of Spaniards and natives alike thus making Zorita privy to how society functioned in pre-Hispanic times. He mentioned how the four "supreme lords" in the provinces of Tlaxcala collected tribute and divided it among themselves.<sup>131</sup> Tribute was not a novel idea; therefore, the Spanish continued the practice and in the process collected what amounted to an enormous amount of wealth throughout the colonial period. But the process was not without its new hardships because in principle tribute collection was the same but practices in pre-Hispanic Tlaxcala differed from those of post-conquest Tlaxcala.

The schism that separated a small elite population from a disproportionately large commoner class was noble lineage in pre-Hispanic Tlaxcala. The rules for the payment of tribute depended on noble status with few exceptions. The tlatoani occupied the highest rung on the social ladder followed by the priests who performed ceremonies and rites. Below the priests were the *jefes de teccalli* who had numerous lower ranked nobles under their authority as well as many macehuales.<sup>132</sup> Next were the *jefes de pilcalli* who possessed houses with land, but their landholdings were not extensive. The last level of the nobility belonged to the poor relatives of nobles, or *teixhuihuan*.<sup>133</sup> Nobles collected tribute from their respective altepetl except for the poor relatives who offered their labor

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<sup>131</sup><sup>131</sup> Alonso de Zorita, *Breve y sumaria relación de los señores de la Nueva España*, 2<sup>nd</sup> ed., (México: Universidad Autónoma de México, 1963), 89.

<sup>132</sup> Aguilera, *Tlaxcala: Textos de su historia. Los orígenes Antropología e Historia*, vol. 5, 106-107.

<sup>133</sup> Ibid, 107.



as tribute or made offerings of fowl, flowers, or wild game they hunted.<sup>134</sup> The only social group without noble lineage that enjoyed exemption from tribute was composed of artisans, artists, and merchants.<sup>135</sup> The majority of the population, made up of macehuales and the class below them, mayeques, paid tribute to the nobles who exercised power over the land they lived on.

According to Zorita's observations, tribute collected by rulers and the nobility essentially came from the land "consisting of the things they grew" with each tributary giving a small amount of a crop or "paying in the products of his craft or trade."<sup>136</sup> Maíz, or corn, was one of the main crops that tributaries paid in the Valley of Mexico.<sup>137</sup> Before the expanding power of the Mexica encroached upon the lands closely surrounding Tlaxcala, the latter demanded tribute from areas they brought under their control as victors in battles. The newly acquired tributaries gave maíz and luxury items such as precious metals, cotton, salt, feathers, and honey.<sup>138</sup> Conquered peoples who lived near the coast paid tribute in maíz and coveted goods such as pearls, shells, cacao, fish, tortoises, and tropical fruits.<sup>139</sup> The system that continued under the Spanish still had maíz as the main crop paid as tribute, but natives were also responsible for giving small amounts of money to defray costs of the colonial bureaucracy.

A precise comparison between tribute before and after the conquest is difficult because a scant historical record exists for pre-Hispanic times. Zorita's writings are invaluable despite his lack of objectivity towards the Spanish. He makes two telling

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<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

<sup>136</sup> Zorita, *Breve y sumaria relación*, 113.

<sup>137</sup> Ross Hassig, *Trade, Tribute, and Transportation: The Sixteenth Century Political Economy of the Valley of Mexico* (Norman and London: University of Oklahoma Press, 1985), 107.

<sup>138</sup> Aguilera, vol. 5 of *Tlaxcala: Textos de su historia Los orígenes Antropología e Historia*, 74.

<sup>139</sup> Ibid, 74-75.

observations: that before the conquest natives gave small amounts of tribute but that it did not matter because their populations were numerous and second, that tribute was never calculated on the basis of population, or "assigned by heads."<sup>140</sup> Frequently, indigenous officials grappled with collecting the designated amount of tribute without falling short. And as will become clear in their arguments with the king, the cabildo blamed the shortage of tribute on a population that was much too low to generate the desired amounts. The overwhelming demands of the crown and the cabildo's failure to meet them was the outcome of a new hierarchy imposed on the commoners responsible for the exorbitant tribute. The king envisioned a simple, uncomplicated extraction in which efficient officials collected and then turned it over to Spanish officials. However, the Tlaxcalan nobles who formed the cabildo refused to forfeit or renounce their former status. It was not uncommon for native officials to sell portions of collected tribute for personal gain. The conquest disrupted their society; therefore, natives met their new limited role as intermediaries with resistance. Wholehearted obedience to the king meant very little gain compared to the daunting liability that tribute represented. The macehuales whose labor produced the tribute resisted as well by fleeing their towns and abandoning their plots of land or by trying to pass as nobles.

Early in the colonial period Tlaxcalans had hoped to avoid tribute altogether. Following the conquest Cortés found himself embroiled in a complicated situation. According to Tlaxcalans, he made them a promise in honor of all the help they offered him and his army. The alleged promise is shrouded in mystery and its authenticity was doubted at the time. Different versions of the promise had Cortés pledging "tribute

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<sup>140</sup> Zorita, *Breve y sumaria relación*, 113 and 196.

exemption, division of conquered land, and equal distribution of booty" as Gibson points out while in another, Cortés promised exemption from tribute and to give Tlaxcala towns.<sup>141</sup> A formal investigation by the crown provided satisfactory evidence for the promise. On May 20, 1585 King Philip II issued a royal privilege stating that Tlaxcala did not have to pay any form of tribute.<sup>142</sup> If Tlaxcalans rejoiced, their celebration was short lived because royal officials found ways around this privilege to force Spain's former allies to pay tribute. Spanish courts would be a battleground for natives well versed in law if they were to enjoy even a fraction of Cortés' promise.

Tlaxcala experienced its first tribute exemption early in the colonial period in 1532. The city of Los Angeles in Puebla was in dire need of macehual labor in order to construct its houses, churches, and buildings for its Spanish inhabitants. Clergymen, native leaders, and a judge from the Audiencia, Juan de Salmerón, agreed that Tlaxcala would not have to pay tribute in maíz in exchange for providing 800 macehuales weekly for four years.<sup>143</sup> Payment resumed in 1538 although the demand for labor in Puebla did not cease. The ties between both places continued since the maíz collected as tribute in Tlaxcala made its way to Los Angeles where it was most likely sold.

By the late 1540s the cabildo had fallen into a steady rhythm mirroring the collection of the 8,000 fanegas of maíz on other tribute. Indigenous leaders exercised their autonomy to influence what occurred in Tlaxcala, but that freedom came with a price. They were accountable for any mistakes or usurpations which certainly applied to tribute. Therefore, dishonesty on the part of nobles and macehuales was punishable by

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<sup>141</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 159-160.

<sup>142</sup> Ibid, 160.

<sup>143</sup> Ibid, 173. The arrangement actually lasted until 1538, an additional two years.

finer. By default noble lineage allowed the pilli to maintain commoners under their tutelage in order to benefit from their labor. They paid the tribute due from the macehuals who formed part of their personal labor forces. At least in principle they were supposed to, however, it was not uncommon for labor to "disappear," in other words, purposely hidden to avoid payments on their behalf. Knowing this practice well, the cabildo fined nobles two pesos if this happened and the fine was half of that amount for macehuals who hid on their own accord to avoid tribute.<sup>144</sup> Cabildo officials benefitted from their positions but it was a nightmare for them to be held accountable for arrears. Thus they tried to transfer the liability over to the pilli and commoners.

The burden of the 8,000 fanegas of maíz for the king of Spain was distributed among the lower and upper classes with graduated tribute amounts. Collectors classified tributaries as "very poor," "somewhat wealthy," and "very rich." Tribute varied from one cuartilla of maíz from very poor macehuals to three and a half fanegas for the rich. Of the four tlatoque, the two wealthiest had to give seven fanegas each and the other two gave six. The rich pipiltin had to give more than or match what the tlatoque paid. The somewhat wealthy had to give anywhere from two to four fanegas, but this was left to the discretion of the alcaldes and tlatoque.<sup>145</sup> To put the matter into perspective, very poor macehuals gave the equivalent of less than four gallons of dry grain while the pilli, who oversaw commoners, gave a minimum of almost thirty gallons to a maximum of 100.<sup>146</sup> The amounts seem fair based on wealth, but the harvest of corn required time and above all labor. Macehuals, not nobles, worked the land; therefore, the burden remained on the

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<sup>144</sup> Celestino Solis, Valencia Rios, and Medina Lima eds., *Actas de Cabildo de Tlaxcala 1547-1567*, 241.

<sup>145</sup> Ibid.

<sup>146</sup> One cuartilla of dry grain equals 13.88 liters, 3.67 gallons. One fanega of dry grain equals 55.50 liters, or 14.66 gallons.

same sector of the population in Tlaxcala. Time dedicated to agriculture and time for other kinds of labor were both required. It was not in the best interest of nobles to "lose" labor to agriculture. In this way, the 8,000 fanegas of maíz put pressure on the nobility and commoners.

The cabildo continued to pay without major incident until the early 1560s before its members initiated a movement against the payment of tribute with carefully constructed arguments sent to the king through viceroy Luis de Velasco. Charles Gibson characterized the "campaign for exemption" as a failure.<sup>147</sup> He concluded this because enforcement rarely followed the declaration of a *cédula* or privilege. However, it is critical to acknowledge the fleeting success of Tlaxcalans in the campaign since they would use the same arguments in court for decades despite the failure to obtain exemption.

The correspondence between the cabildo and the king demonstrates the dedication and foresight of Tlaxcalans. As allies the nobility had established contact between Tlaxcala and Spain early on in the colonial period. The ongoing communication showed nobles' adaptation to Spanish culture complemented by an incongruous conviction to avoid the fate of the average subjects of king Philip II. According to Gibson the cabildo had waited to become "well-organized" and "versed in the special processes of Spanish law" in order to pursue exemptions and privileges.<sup>148</sup> They presented a strong case in ornate, persuasive language which adhered to the formal protocol of addressing a monarch.

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<sup>147</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 181.

<sup>148</sup> Ibid, 161.

In its letter dated July 23, 1561 the cabildo's opening statements immediately impose their interpretation of the nature of the king's laws. For instance, change over time, they said, "forces kings to make, eliminate, and amend laws and statutes for the good governance of their kingdoms, [and] their peace and tranquility."<sup>149</sup> The law, as they saw it, was a work in progress. This instability "compels and teaches subjects and vassals that, when [the laws] are not enforced by gobernadores and justices, they look to audiencias and royal chancelleries for favor and remedy with humility."<sup>150</sup> When those royal entities failed to remedy grievances, natives had the understanding that the next logical step was to appeal to the "king and father" who was obligated by divine, civil, and natural law to "protect and sustain them in justice."<sup>151</sup> The king was supreme but the cabildo reminded him that his empire expanded due to the sacrifice of his subjects.

Pablo de Galicia, Blas Osorio, Félix Mejía, Don Juan Xicoténcatl and the rest of the officials who penned the letter reasoned that "the crown made them free" of tribute because they had spilled much blood conquering the land to give it over to Spain. Therefore, they pleaded that Tlaxcala not be ordered to pay 8,000 fanegas of maíz that the king's officials forced them to pay. The men are undeniably clear about their expectations about being "favored" as the "loyal vassals that we have always been."<sup>152</sup> Self-deprecation assured the king that they knew their place as subjects. They promise to no longer bother the king with their "uncouth and coarse" words. However, they would not have done this in the first place had there been *escribanos* willing to take down the

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<sup>149</sup> AGI México, legajo 94, in Carlos Sempat Assadourian and Andrea Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI* (México: Consejo Nacional para la Cultura y las Artes, 1991), 6:296.

<sup>150</sup> Ibid.

<sup>151</sup> Ibid.

<sup>152</sup> Ibid.

testimony of abuses they suffer, something the scribes avoid for fear of displeasing the king's justices.

Finally, the letter concludes with a reiteration of their loyalty as subjects of the king and figuratively kiss his feet and hands. The reverence expressed by the cabildo merely cloaked the dissatisfaction with the chasm between what Tlaxcala helped Spain accomplish during the conquest and what they received in exchange. According to them, the crown had freed them of taxes and tribute yet they still had to pay the 8,000 fanegas. A relationship between ruler and subject based on reciprocity was an underlying assumption in their plea for tribute exemption. The military help rendered by Tlaxcala had in effect created a contract between their sovereign and them, at least from their perspective. Less than a year later the cabildo sent a delegation to Spain to present more thorough arguments before the king.

The tone of the cabildo changed in March 1562 in the written petition that the king was going to read while the group of delegates from Tlaxcala visited Spain with the express purpose of gaining privileges to which they felt entitled. The group of representatives included Don Pablo de Galicia, the gobernador, and principales from the four altepetl: Don Lucas García, Don Antonio de Paredes, Don Antonio del Pedroso, and Don Alonso Gómez.<sup>153</sup> A deferential tone replaced the abrasiveness from the prior petition. It was in their best interest to be in the good graces of the king. Their language changed but they found an alternative way to emphasize their instrumental role in the conquest.

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<sup>153</sup> Ibid, 298.

Don Pablo García and his officials embellished the initial meeting between Hernan Cortés and the Tlaxcalan people. Conveniently erased from their collective memory were the distrust and military clashes that had characterized the arrival of the Spanish. Tlaxcalan leaders had known that Cortés was approaching their territory from present day Veracruz but had different opinions about how to respond to "letters of greeting and of peace" from him.<sup>154</sup> There were two camps within the leadership of Tlaxcala: the one led by Maxixcatzin from the altepetl of Ocotelulco which supported peace with the Spanish, and the other was led by Xicoténcatl el mozo from Tizatlán which supported waging war against the invaders.<sup>155</sup> In the end both factions compromised; they tricked the Spanish with a false acceptance of peace and launched surprise attacks which eventually ended with an alliance when European weaponry proved superior.<sup>156</sup> Not only did they omit the battles, but the indigenous officials put a new spin on what happened.

In the petition of 1562, the delegation was emphatic about their loyalty to the king and traced back said sentiment to the arrival of Cortés. Their "padres y antepasados," fathers and forefathers, served the crown with loyalty and had done so when the conquistador "con la gente española," with the Spanish people in his company arrived to conquer and pacify.<sup>157</sup> According to the revised account, their Tlaxcalan forbearers "received them peacefully and with all the love and peace and volition" thus putting themselves at the service of king Charles I, "of glorious memory."<sup>158</sup> They downplayed

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<sup>154</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 18.

<sup>155</sup> Ibid.

<sup>156</sup> Ibid, 18-19.

<sup>157</sup> AGI México, legajo 94, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI* vol. 6, 298.

<sup>158</sup> Ibid.



any hint of discord or rebellion; there was no doubt that they had been allies from the beginning.

Unwavering allegiance to the king caused Spain to reap both valuable goods and territory during the conquest. The officials convincingly documented all of the help Tlaxcala gave starting with the large quantities of gold and precious gemstones given to Cortés. They mentioned giving those commodities before mentioning that they also provided basic necessities such as food. To list food after gold reflected the priorities of the Spanish. The strength of their case to secure tribute exemption was in the peoples they helped subjugate and the territories they "pacified." They took credit for assisting in the capture of Cholullan, Tepeyacac, Cuauhquechullan, Mexico City, Cuauhtemalla, Culhuacan, Nueva Galicia, and others.<sup>159</sup> Tlaxcala, they pointed out, suffered the loss of nobles in addition to other distinguished people because they were loyal vassals.

The turning point of the conquest of the Valley of Mexico had depended on the alliance with Tlaxcalans. Thousands of indigenous allies swelled the ranks of a defeated Spanish army which had narrowly escaped Tenochtitlán after Moctezuma's death. The event known as La Noche Triste could have been catastrophic for Cortés and his men. But it was not. Four decades later, the descendants of the allies who helped conquer the Mexica capital sought a tangible, warranted reward for reversing the doomed predicament of the Spanish. Tlaxcala had helped "especially when said marquis [Cortes] retreated from Mexico ruined and with the majority of the Spanish people killed by the Mexica, the province of Tlaxcala received him with the same love and volition as

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<sup>159</sup> Ibid, 298-299.

always."<sup>160</sup> Cortés himself may have realized the significance of having received help during such a critical moment.

According to the natives, the conquistador made them a promise that had yet to be fulfilled by the crown. He had been cognizant of two things: Tlaxcalans had rendered "notable services" to the king of Spain and it had taken a heavy toll on the income and treasury of the delegates' ancestors.<sup>161</sup> For their aid and subsequent financial troubles he promised various towns as gifts and, most importantly, freedom from any obligations of tribute payments. What Tlaxcala did receive, they argued, were "*muchos malos tratamientos y vejaciones*," plenty of bad treatment and vexations associated with both tribute and labor, "*servicios personales*."<sup>162</sup> According to Gibson, recurring references to the alleged promise, including this petition made to the king himself, launched a royal investigation just two years later.<sup>163</sup> Cortés died in 1547, but the conquistadors still living testified before the Audiencia about the veracity of the promise. The testimony varied greatly with the majority denying that they had ever heard of such a promise and others claiming that they had witnessed it.<sup>164</sup>

In their last arguments about tribute exemption, the delegation was willing to accept an alternate form of compensation for the towns they had not received but insisted on not paying any form of tribute. They downplayed the significance of their monetary contribution to the royal treasury because, in their words, "8,000 fanegas of maíz will do little to enhance your majesty's treasury and this city and province [of Tlaxcala] will

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<sup>160</sup> Ibid, 299.

<sup>161</sup> Ibid.

<sup>162</sup> Ibid.

<sup>163</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 160.

<sup>164</sup> Ibid.

receive great favor in becoming free, like it deserves for its loyalty and services."<sup>165</sup>

Undoubtedly, the crown did not snub any amount of wealth from its colonies.

It was not that the cabildo accomplished what it set out to do until 1585 when a cédula declared Tlaxcala exempt from tribute. Tlaxcalans were not to pay nor contribute in anything, "*no pagasen ni contribuyesen en ninguna cosa*." Their voyage to Spain was a success as well as the compelling arguments in their carefully thought out petition. King Philip II named Don Antonio de Guevara, Don Zacarías de Santiago, Don Pedro de Torres, and Don Diego Téllez as the principales who informed him about the promise that Cortés made to his allies. The matter had been settled; the king decided to honor the arrangement. He repeated (and thereby perpetuated) what the delegation of 1562 had asserted: Tlaxcala received the Spanish as "friends and with peace."<sup>166</sup> The king also reiterated the claim that Tlaxcala had not paid tribute for twenty years because of the promise. According to Gibson, there was proof that they had indeed paid tribute shortly after the conquest; this claim by the king was designed to create "a rightful precedent" and it was successful.<sup>167</sup>

The king pondered other issues that would justify exemption. Service to the Catholic Church, in particular the Franciscan order which first evangelized Tlaxcala, gave them an upper hand since piety was akin to loyalty. In their petition, the delegation expressed strong preference for religious instruction from Franciscans, so much that they requested that no other order be allowed. They imparted an ideal account of how the

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<sup>165</sup> AGI México, legajo 94, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 300.

<sup>166</sup> AHET, caja 5, 1585, exp. 9, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 304.

<sup>167</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 175.

busy clerics filled their time with confessions, baptisms, and evangelization.<sup>168</sup> In the king's eyes, it meant his subjects were living up to the standards of "civilization" because they were good Christians. Tlaxcalans provided the resources needed by the clergy to carry out the aforementioned religious duties. "Until now," the king stated, "just the annual payments of 300 pesos for the salaries of the *alcalde mayor* and his deputy have been paid from my treasury."<sup>169</sup> He emphasized it because the fanegas of maíz were intended to cover the expenses of the clergy *and* those salaries. Nevertheless, natives maintained the religious institutions that included fifty churches, ten Franciscan monasteries, which housed forty friars, "and they give them everything they need, for their livelihood and other things necessary for the divine cult."<sup>170</sup> The importance of religion was not lost on the *cabildo* and thus knew the impact that such devotion was likely to have on the king. And they did not err in their judgment about the role it could play in tribute exemption.

Religion was a pillar of colonialism, but to reward zeal with exemption created a conflict of interest because it was conducive to lower profits. The paternalism inherent to empire building cast the crown as protector of the natives. Under that pretense, the king's actions were understandable. Arguably, Philip II confronted another issue in the capacity of guardian of the natives. The topic of population was inconvenient, at best, for him to discuss since the number of indigenous inhabitants in Tlaxcala was the basis for the tribute quota imposed. In other words, the higher the population, the more tribute the

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<sup>168</sup> AGI México, legajo 94 in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 300.

<sup>169</sup> AHET, caja 5, 1585, exp. 9 in Carlos Sempat Assadourian and Andrea Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 304.

<sup>170</sup> Ibid, 304-305.

royal treasury amassed; the reverse was true if the population was low. When the king set the amount at 8,000 fanegas, Tlaxcala had more than 300,000 natives whereas by 1585 the population had dropped to approximately 24,000 because of "enfermedades y pestes," sicknesses and pestilence.<sup>171</sup> Given these facts, the conclusion was that if Tlaxcalans paid religious expenses and tribute they would pay as much as all other tributaries. Exemption corrected this in accordance with Cortés' promise and what their services merited. The delegation emerged triumphant after waiting a little over twenty years. Their relentless thread of aid, loyalty, service, and sacrifice was substantiated by both evidence and convincing argumentation. While it may be true that Tlaxcalans enjoyed this victory briefly, they held on to the belief that the cedula tacitly bestowed validity on their line of reasoning. Instead of a decorous formality, the words of Philip II became an important example to cite in other correspondence and legal cases when implementation did not follow.

When tribute still had to be paid, natives turned to another venue, the Juzgado, to seek justice for tribute abuses. As Tlaxcalan leaders maintained a dialogue with the crown and with Spanish officials such as the viceroy, natives took legal action to stop mistreatment. Pedro de Torres and Antonio Jiménez from Huamantla filed a lawsuit in 1583 against "a certain Diego Muñoz," a Spaniard, who was responsible for "damages and grievances, crimes and excesses" in the town. Among the misdeeds he committed were "elevated tributes."<sup>172</sup> The Spanish alcalde mayor was to receive the details of the case and the court ordered him to punish Muñoz for his abuses against the natives. The cabildo collected tribute for the royal treasury, which caused financial strain, and those

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<sup>171</sup> Ibid, 305.

<sup>172</sup> AGN Indios 2- 454:f:109.

same tributaries were targets for extortion so that people like Muñoz could cash in on the amount extracted.

Pedro de Torres and Antonio Jiménez had to fend off those trying to profit at their expense. Royal response to the cabildo seemed promising with the cedula of May 20, 1585. However, it failed to quell the mistreatment suffered especially by the macehuales who lived in poverty but had to pay tribute. Spaniards and officials, both indigenous and Spanish, increased tribute amounts thereby putting even more pressure on the most disadvantaged group. Prior to the cedula, the reality of how much money the cabildo needed to make ends meet was evident in a petition to viceroy Martín Enríquez de Almanza in 1573. The first deduction from the 8,000 fanegas automatically went to the royal treasury. The remaining amount had two uses: cover salaries and support the church. The cabildo lacked sufficient funds from "the leftovers" to pay the salaries of caciques from the four altepetl, the gobernador, alcaldes, and other officials.<sup>173</sup> The solution? Increase tribute from one cuartilla of maíz to half of a fanega to pay all expenditures. If Tlaxcalan officials thought they had a serious problem in their hands with unbalanced account books in 1573--that the cédula of 1585 presumably rectified via exemption from all tribute--they had yet to tackle the king's unwillingness to give up returns from his colonies.

As mentioned above, exemption was a short-lived affair for the cabildo. The recognition awarded for services and loyalty to the king of Spain underwent a revision. The crown found a way to exclude the 8,000 fanegas of maíz from the cedula of 1585. Royal officials did this by making a distinction between tribute eligible for exemption

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<sup>173</sup> AHET, caja 3, 1573, exp. 2, 1f., in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 303.

and "a special kind of tribute" such as the *reconocimiento* of maíz.<sup>174</sup> Owing to this self-serving reinterpretation, Tlaxcalans had little hope of being granted genuine exemption.

Philip II addressed the topic of tribute once again with a less than encouraging prognosis. Five years after the *cédula*, almost to the day, he proclaimed that Tlaxcala was to give "no more than" 8,000 fanegas of maíz for a period of thirty years beginning from May 1590.<sup>175</sup> The new *cedula* did not bode well despite mention of the services rendered to the crown yet again. There was an implicit assumption that Tlaxcalans could possibly be charged *more than* 8,000 fanegas when that time expired. But if that part was the proverbial stick, the clause granting exemption from *alcabala* (sales tax) for the next twenty years was the carrot. The *alcabala* was an Iberian innovation dating back to the fourteenth century which was a significant source of royal revenue.<sup>176</sup> Philip II liberated Tlaxcala from taxes on "the things and fruits from [your labor] in tilling and breeding."<sup>177</sup> The *cabildo* would not wait until 1620, or thirty years later, to see changes in policies toward tribute. The crown not only retracted its temporary exemption, but added an additional tribute as well.

The last decade of the sixteenth century was rife with friction between native and Spanish officials over a new tribute, *servicio de tostón*. Two years after Tlaxcala gained the thirty year exemption, the king needed more income in order to fight threats to his empire. The additional amount of four *reales*, or one-half peso, per tributary was

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<sup>174</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 175.

<sup>175</sup> AGI México, legajo 340, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 267.

<sup>176</sup> Kamen, *Spain 1469-1714: A Society of Conflict*, 87.

<sup>177</sup> AGI México, legajo 340, in Carlos Sempat Assadourian and Andrea Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 267-268.

<sup>49</sup> *Ibid*, 288.

<sup>50</sup> *Ibid*, 291.

necessary to help finance "a large navy for the defense of these kingdoms and the security of the fleets that come and go from Castile."<sup>178</sup> The Spanish gobernador, Don Pedro Lorenzo de Castilla, relayed the urgency of the servicio during a cabildo session in 1592 telling native officials that the king needed their help "for wars against the privateers who are enemies" and "in the defense of our Christian law."<sup>179</sup> The reasons and the sense of urgency given to the matter were not compelling to indigenous officials.

The appropriate reaction, according to the crown, would have been acquiescence. Instead, natives set out to defend exemptions thus generating backlash with their lack of compliance. Philip II found his kingdom challenged by Sir Francis Drake who led a mighty English navy backed by Queen Elizabeth I. In the late 1580s he spearheaded a launch of attacks against Spanish colonies in the Caribbean.<sup>180</sup> The ideological differences between both empires exacerbated the conflict, thus pitting Protestantism against Catholicism. The dissent of natives in the face of such threats gained them harsh criticism from viceroy Luis de Velasco and the Spanish gobernador. A veritable war of words ensued in which the cabildo found itself in the same position as it had when they argued for tribute exemption, citing loyalty and services. The cédulas that had been issued intensified the debate.

The character of native leaders came under fire as the viceroy accused them of having a false sense of entitlement to privileges as well as calling into question their "substance" or quality as members of the nobility. Viceroy Velasco wrote to Philip II in May 1592 with frustration about the opposition to the servicio. According to him, the

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<sup>51</sup> Henry Kamen, *Empire: How Spain Became a World Power 1492-1763* (New York: Perennial, 2004), 260-261.



Tlaxcalans boasted a status of conquistadores and also bragged about the liberties awarded by his majesty.<sup>181</sup> He went on to say that "with the mere suspicion that this servicio will be collected from the rest [of New Spain's tributaries], they have come to me presenting their cédulas and privileges, despite having been for a different purpose."<sup>182</sup> Tlaxcalans had accepted the reconocimiento of 8,000 fanegas of maíz as an exception to the 1585 cedula granting exemption, however, they refused to accept yet another. The resolute stance provoked Velasco; he insulted the cabildo's integrity.

Indigenous officials intended to turn the tables on the Spanish. They had a condition: Tlaxcala would pay the servicio only for two years. The prospect of such a brief time period drew a scathing response. In Velasco's estimation, to be noble was contingent upon how much a man gave, especially to his king.<sup>183</sup> Since Spaniards set the norms for colonial society, the viceroy manipulated the very meaning of nobility, the social class that allowed mobility and could provide a degree of power, however measured, and autonomy.

Luis de Velasco was aware of the two year time limit imposed by the cabildo in May when he wrote to the king. He hinted at deliberations having taken place among native officials to arrive at a consensus. When Velasco wrote to the cabildo nearly five months later in October, his sole purpose was to dissuade the natives from paying only for two years. This was when he questioned their status as nobles. The cabildo met three times after that correspondence, once in October and twice in November of 1592.

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<sup>181</sup> Biblioteca Nacional de México, Ms. 3 636, ff.121 y 141v, in Sempat Assadourian and Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI*, 287.

<sup>182</sup> Ibid.

<sup>183</sup> AGI México, legajo 340, in Sempat Assadourian and Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI*, 289.

The three sessions are important because upon their conclusion native officials walked away having made the decision to pay the servicio for two years. In two of the three sessions both the Spanish and native gobernadores, Pedro Lorenzo de Castilla and Juan de Paz, were present as Tlaxcalan officials formally came to an agreement. In the first one, Castilla and the natives who knew how to sign their names did so on the recorded minutes.<sup>184</sup> The succinct summary of the second session on November 6 mentions the viceroy's letter to them; they agree to take it into account as they were still discussing the matter. On November 20 they reconvened. In the presence of Juan Ruiz, the interpreter, and Diego Muñoz Camargo, procurador of the city, the issue was resolved on the basis of the officials' votes: to pay the servicio for the next two years.<sup>185</sup> With this formal procedure, the cabildo considered it a settled matter.

The formalities, deliberations, and signatures were null. Castilla sat in the meetings and signed his name under the guise of cooperation but he intentionally deceived the cabildo. In 1593 the viceroy hatched a plan to avoid granting Tlaxcalans exemption. Hypocrisy and deception were rampant in colonial affairs, albeit rarely transparent. Collusion between officials, Spanish and native, occurred frequently. Luis de Velasco and Pedro Lorenzo de Castilla openly corresponded about how they would deal with the Tlaxcalan resistance to pay the servicio for an indefinite period instead of only two years. Velasco explicitly stated to Philip II that the cabildo needed to be misled. He said, "With the Indians of Tlaxcala it appeared convenient to use trickery and to avoid giving them an understanding that the real cédula included [the servicio]."<sup>186</sup> He

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<sup>184</sup> Ibid, 290.

<sup>185</sup> Ibid, 292.

<sup>186</sup> Biblioteca Nacional de México, Ms. 3 636, ff.121 y 141v, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 287.

admitted that such a strategy was necessary because Tlaxcalans were skilled people who knew what tribute was as well as exemption.<sup>187</sup> The cabildo was a force to be reckoned with; their savvy forced the viceroy to resort to deception. He knew that Tlaxcala was being cheated of an exemption and he could not argue his way out fairly.

Naturally, Velasco employed the help of de Castilla as an informant because the system in place facilitated (and encouraged) such maneuvers. The goal was to prevent conversations with, demands from, and responses to the cabildo; Castilla was the key to making this happen. Because the cabildo held him in high esteem, he wanted Castilla to charm them and steer them towards the desired path of accepting the servicio.<sup>188</sup> Cabildo officials had no knowledge of the secret communication between de Velasco and de Castilla concerning what the natives discussed about the servicio. The plan included convincing Tlaxcalans that it was not in their best interest--as nobles--to be below the rest of the king's subjects who willingly paid. Velasco brazenly affirmed that once Tlaxcalans paid the tribute for two years, it would be "easy" to continue collecting it.<sup>189</sup> But native officials did not budge. At the end of the sixteenth century Spanish authorities arrested them because they had not paid the servicio since 1593.<sup>190</sup>

On December 20, 1594 the viceroy issued an order for Tlaxcala. They were to pay the servicio unless the king stated otherwise. All other subjects of New Spain had paid except for Tlaxcala. Records showed that they had paid the tribute for the years 1592 and 1593 but had ceased to continue payment. The cabildo was thereby responsible

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<sup>58</sup> Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Ibid, 288.

<sup>61</sup> Ibid,

<sup>190</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 180. Gibson points out that it was possible that the cabildo only owed tribute for the years 1596-1598.

for collecting and paying tribute due since the day that had stopped.<sup>191</sup> The sum due was approximately 8,000 pesos. But they did not heed the warnings because they firmly believed in the exemption of 1585.

The cabildo formally defended its stance by writing to the king on two separate occasions in 1598. Sempat Assadourian and Martínez Baracs point out that the tone of the correspondence changed. The customary rhetoric previously used to address the king was replaced by a harsher one. The cabildo surreptitiously sent the second letter directly to the king, deliberately skipping the office of the viceroy.<sup>192</sup> The thirty year exemption of tribute promulgated by the king and the plan set in motion by Velasco and Castilla gave native officials grounds to defend themselves. In addition, the last subject discussed in the letter was services for the crown during the conquest. No longer masked in politeness and deference, the discussion of sacrifices for the crown was mordant in tone.

The cabildo accepted only one form of tribute: the *reconocimiento* of 8,000 fanegas of maíz paid annually. They unequivocally rejected any other form of tribute for three reasons, the 30 year exemption granted by Philip II, the misleading corroborative actions of the viceroy and Spanish gobernador putting a stamp of approval on two years' payment of the *servicio*, and demography. Although it was obvious that the king had no intention of honoring the 30 years of no tribute, the officials simply ignored that fact. Instead, they blamed the viceroy for making demands that contradicted that order.<sup>193</sup> To make this accusation was subversive because the cabildo ignored the reality that the king

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<sup>191</sup> AHET, caja 9, 1599, exp. 4, ff. 14v-15 in Sempat Assadourian and Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI*, 293.

<sup>192</sup> Sempat Assadourian and Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI*, 308.

<sup>193</sup> AGI México, legajo 340, in Sempat Assadourian and Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI*, 309.

himself allowed the viceroy to charge them tribute; it was not the first instance of a rescinded *cédula* or proclamation.

Indigenous officials expressed dismay at the fact that they had gone through procedures to formally establish their intention to pay the *servicio* for two years. They told the king that Pedro Lorenzo de Castilla had been present at all three *cabildo* meetings in which "*quedó resuelto y acordado*," it was resolved and agreed that the four reales per tributary would be paid for two years only.<sup>194</sup> Velasco underestimated the lengths to which the *cabildo* officials would resort to in order to obtain what they established using tactics that emulated what the Spanish did, such as creating a binding paper trail. Forcing Tlaxcala to continue paying the *servicio* simply because they had paid it for the first two years turned out to be a difficult task; it failed to register as a precedent.

A reason beyond the control of the *cabildo* prevented them from fulfilling their duty anyway. They argued that there were "a lot of people missing in all of the province" because there had been a notable decline in population.<sup>195</sup> The demographic figures mentioned above were approximately 300,000 natives in Tlaxcala following the conquest and by 1585 the figure cited by Philip II was that of 24,000. The population count, they pointed out, had been completed about six years prior, but the current figures had changed, showing further decline. According to them, there had been about 16,000 natives at the time that the *servicio* was imposed, however, there were less than 7,000 in 1598. Pestilence and a high death toll had caused the demographic change towards the end of the century.<sup>196</sup> Low population figures would not yield the amount of tribute the

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<sup>194</sup>Ibid.

<sup>195</sup> Ibid.

<sup>196</sup> Ibid.

crown desired. Officials extricated themselves from the problem, and the tribute due, because it was impossible to abide by the demands.

After six years of not collecting the *servicio* from Tlaxcala, the crown reached its breaking point. Cabildo officials were arrested and jailed in Cholula in 1599 as a result. They penned an appeal to the king from their cell. A softer tone characterized this intent to gain their freedom as well as their assets which Spanish authorities had seized in order to accumulate some of the 21,599 and 3 tomines owed. Despite their compromising situation, they stood by what they argued on previous occasions. Even though they were deprived of freedom they alleged that Spanish authorities handled this incident incorrectly. The case against them was pending as an appeal in the Royal and Supreme Council of the Indies at the time of their arrest. Therefore, unless there was a decision, motions to collect the tribute arrears could not take effect.<sup>197</sup> The royal bureaucracy tried to cut corners in their own legal processes in order to force subjects to obey at will. But they had found a formidable opponent in the cabildo since they insisted that they had in fact complied already. "Our city does not owe anything," stated the natives, because they paid the *servicio* for two years.<sup>198</sup>

The reminders of Tlaxcala's alliance during the conquest and the aid in pacifying other areas of New Spain was at the center of the ongoing debate about tribute. Enough time had gone by for them to analyze what their help had enabled Spain to accomplish in the long run. In their 1598 letter to the king, they put more emphasis on the risks they took to provide aid. The lives of 400 Tlaxcalan families were constantly at stake when,

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<sup>197</sup> AHET, caja 9, 1599, exp. 4, ff. 7v-9 in Sempat Assadourian and Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI*, 294.

<sup>198</sup> Ibid.

as loyal vassals and pious Catholics, they agreed to populate New Spain's northern frontier despite the dangers.<sup>199</sup> They risked damages and even death because native peoples of that region, such as the Chichimecs, violently raided the area. All of this was testimony to exemplary service, but the cabildo went further. Because they populated the region, it led to the discovery of many silver and gold mines, the best to date, which in turn caused the king to acquire a significant amount of wealth.<sup>200</sup> While it was true that the conquest had happened a long time ago, thus causing it to lose relevance in the crown's view, the cabildo made significant connections between the past and their present.

Again the cabildo cited circumstances related to demography that they could not control which negatively affected the chances they had of paying the accumulated servicio. One has to consider the possibility of how officials were manipulating this topic to their advantage. Perhaps they exaggerated the losses, but the sharp decline after the arrival of the Spanish served as proof. According to their 1599 appeal, for twenty years diseases such as *cocolistle*, a type of fever, small pox, and measles diminished the indigenous population.<sup>201</sup> Native officials calculated that each tributary would have to contribute at least ten pesos to compensate for the population that was missing.<sup>202</sup> The crown had other arrangements in mind to collect the 21,599 pesos and 3 tomines due to the royal treasury.

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<sup>199</sup> AGI México, legajo 340 in Sempat Assadourian and Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI*, 310.

<sup>200</sup> Ibid, 311.

<sup>201</sup> AHET, caja 9, 1599, exp. 4, ff. 7v-9 in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 295.

<sup>202</sup> Ibid.

The cabildo had reason to be protective of their assets. As they wrote their petition, Valentín de Jasso, *corregidor* of Cholula, took action against the officials financially. He expected payment of the arrears on the first day of March 1599. The consequence for failing to meet the deadline was that de Jasso sold Tlaxcalan community land to the highest bidder.<sup>203</sup> It is unclear whether or not the crown collected the amount owed down to the last tomin. If it did, the royal government successfully invalidated the privileges granted to Tlaxcala. Nevertheless, the *cédulas* would still appear in litigation in later years in the same way that resistance to pay tribute would cause arrears in tribute. If the entire amount was not collected, the cabildo would have enjoyed at least some of the privileges the crown granted them.

A snapshot of the sixteenth century showed indigenous officials documenting and defending their exploited population on a local and transatlantic scale, a monarch who was aware of how his policies, both political and economic, affected his subjects, and a lower stratum of society that was vocal in court. They communicated their grievances to their leaders and indigenous officials defended them. The demands of the crown constantly escalated throughout this time period. The Tlaxcalan cabildo emerged as a political institution that created a dialogue about how the region could and could *not* sustain the demands. However, more often than not, they shifted the focus to how they would not because they helped during the conquest. The cabildo was resilient even though setbacks in their goal to be recognized for their service continued.

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<sup>203</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 180. He points out that the cabildo had previously resorted to this practice for funds.



## Chapter Three

### The Calm Before the Storm: The Cabildo in the Sixteenth Century

In early January 1548 the cabildo opened session and went about its usual business in the presence of the native gobernador, Alonso Gómez, and the alcaldes and regidores. The Spanish corregidor, Diego Ramírez, was in attendance as well. On this day Ramírez participated in the meeting rather than acting as a passive member of the audience. He had an important message for the indigenous officials. Within the next three days the gobernador and his men had to gather all the privileges, provisions, and cédulas awarded by the king. They had to be inventoried and stored securely inside of the cabildo community box by the deadline. Five keys to the box were to remain in the possession of the gobernador, two alcaldes, and two scribes. By the second day, the cabildo had completed the task. The documents passed from the care of the monastery of San Francisco, where they had been stored in a chest, to the cabildo itself.<sup>204</sup>

Over the next few decades the inventory of the community box would grow. It was fitting that the cabildo possess the privileges and cedulas for which they fought diligently. The nobles who embodied the cabildo were well versed in legal rhetoric which was vital for their audiences with the king or high ranking officials such as the viceroy. They utilized their leadership to gather sufficient funds for travel associated with privileges such as trips made to Spain or to collect tribute in kind from Tlaxcalans for the purpose of receiving the viceroy with proper pomp and pageantry. The cabildo was actively involved in nearly every aspect of Tlaxcalan life after the conquest. Whether it was land, labor, societal norms, matters of faith, or elections, the men who

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<sup>204</sup> Eustaquio Celestino Solis et al., *Actas de Cabildo de Tlaxcala 1547-1567*, 240.

composed the colonial municipal government continued, as much as Spanish dominance made itself felt, to keep as many pre-Hispanic traditions as possible. They were able to retain a large measure of autonomy after the conquest.

Tlaxcalans of noble status had a strong sentiment about their responsibilities to their community. As discussed earlier, don Juan Zapata's annals were a significant contribution to the historical record of this part of central Mexico. It is because of him that we also know how officials felt about their leadership. According to Townsend, "the trust of the commoners" is what the native leaders held dear.<sup>205</sup> This underlying belief motivated don Zapata to be selective from whom to derive or record the history of his people. That he relied on Nahuatl sources supports this assertion. This sense of responsibility manifests itself in the actions of the cabildo, especially during the sixteenth century when they represented macehuals in court.

This chapter will further examine the role of the cabildo during the sixteenth century. The bargaining chip of the Tlaxcalan nobility since the inception of colonialism was their help in toppling the Mexica empire. This coupled with the Spanish need for functional, efficient institutions aided Tlaxcalan efforts to maintain a political system that closely resembled their own. Charles Gibson analyzed the role of the cabildo in Tlaxcalan life from the point of view of natives. He was one of the first historians to focus on the actions of indigenous people who had some control over their daily lives during the colonial period. He argued that the cabildo had the most influence during the sixteenth century, but that it waned towards the end of that time span. According to

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<sup>205</sup> Camilla Townsend, "The Concept of the Nahua Historian: Don Juan Zapata's Scholarly Tradition," in *Indigenous Intellectuals: Knowledge, Power, and Colonial Culture in Mexico and the Andes*, eds. Gabriela Ramos and Yanna Yannakakis, (Durham and London: Duke University Press, 2014), 140.

Gibson, they forfeited power when they lost control of a process he referred to as Hispanization. By this he meant acculturation to Spanish customs such as the political reorganization of indigenous government to fit the mold of a *cabildo*.<sup>206</sup> My contention is that the *cabildo* did indeed exert a tremendous amount of influence, however, as the end of the century neared, the officials were in a position to adjust in order to confront the escalating demands of the Spanish crown as well as Spanish civilian intrusions. The *cabildo* never enjoyed a respite from colonial pressures. They were in constant dialogue with all levels of Spanish authority throughout the sixteenth century.

Indigenous officials became accustomed to handling all Tlaxcalan affairs in an orderly fashion and, more importantly, to making decisions. Their fight for exemption from tribute demonstrated their sentiment towards running their own town government; they defended what they believed was rightfully theirs. Whereas Gibson characterized the sixteenth century as a golden age of sorts for the *cabildo* that came to an end, I examine the ways in which this time period crystallized the officials' own perception of themselves, their government issues of tribute and labor, and the place that Tlaxcala deserved in New Spain. An analysis of the seventeenth century in the next chapter will show how the order and autonomy of the previous century fueled tenacious legal battles. The end of the sixteenth century was not synonymous with decline in native agency.

The political transition to a *cabildo* after the conquest left both Spanish bureaucrats and nobles with the problem of how to transform a multipartite *altepetl* into a city featuring centralized power. The city of Tlaxcala was the urban creation of the Spanish for their purposes, but they accommodated the four *altepetl*. Leadership rotated

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<sup>206</sup> Charles Gibson, *Tlaxcala in the Sixteenth Century*, 122.

among the four parts and the cabildo elected a new gobernador every two years from a different altepetl and new alcaldes and regidores every year.<sup>207</sup> The transfer of power at the beginning of the year was peaceful, with few exceptions. During elections the corregidor and members of the clergy were present as well as one or more escribanos. A Nahuatl-Spanish interpreter was also present (as he was always during meetings). The cabildo cast a total of 220 votes which they immediately counted in order to see who had received the most votes. After they declared a winner, the new official or officials had to take an oath.

The wording of the oath revealed the significance of being in the service of the crown. On January 1, 1549 the promise that the gobernador, alcaldes, and regidores made was primarily to God and then to "the emperor," Charles I. The tlatoani told the newly elected officials, "If you carry out your duty well, our Lord will reward you, and someday the emperor will remember you for having served well in your position, and if you do not [do well], if you do it for fondness or hate, the demons will punish you in hell."<sup>208</sup> The importance of the cross and the crown was the underlying message that was not supposed to be forgotten by the natives. Their behavior certainly attests to the sense of obligation they felt as officials. But Christianity and the king were not the only motivations they had. The centrality of the cabildo's purpose lay in its precise, organized actions because to have taken their duty lightly would have meant a forfeiture of control over the surviving parts or aspects of their former institutions.

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<sup>207</sup> Celestino Solis et al., *Actas de Cabildo de Tlaxcala 1547-1567*, 319. Prior to 1552 the gobernador, alcaldes, and regidores were elected simultaneously at the same cabildo meeting.

<sup>208</sup> Ibid, 254.

Cabildo officials originated from the nobility, or *pilli*. Leadership based on noble lineage survived well into the post conquest period. It was of great importance to the cabildo because the political order they were accustomed to still governed in a world where they no longer had complete dominance. This aspect of the cabildo was the cornerstone for autonomy, albeit measured, since they kept the custom that legitimized native rule. Prior to the conquest the rulers of the four altepetl ascended to that position through dynastic succession. This practice survived the imposition of a Spanish modeled cabildo and into the late sixteenth century. As Gibson pointed out, beginning approximately in the 1560s disruptions occurred in some dynasties. For instance, problems between family members in Quiahuiztlan caused altepetl rulers to be elected rather than inheriting the position.<sup>209</sup> In comparison, dynasties such as the one of Tepeticpac had longevity; it survived into the seventeenth century.<sup>210</sup>

Cabildo officials mediated conflict and guarded rules or traditions decided upon. Familial quarrels had caused Quiahuiztlan to elect altepetl rulers. In September 1560 Don Felipe de Arellano, the alcalde mayor (formerly known as the corregidor) suggested a new procedure so the altepetl could have a new ruler. At his behest, an election would take place but only as a placeholder while Don Julián [Motolinia's] son came of age to inherit the leadership of Quiahuiztlan. Officials "conversed" about the matter but concluded that this could not be done because "it was not his right" to have the position.<sup>211</sup> Thus, the decision of the cabildo prevailed over the wishes of the alcalde mayor. The cabildo's response to the dissonant suggestion discouraged officials from

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<sup>209</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 96.

<sup>210</sup> Ibid.

<sup>211</sup> Celestino Solis et al., *Actas de Cabildo de Tlaxcala 1547-1567*, 386.

making an exception to the established procedure. To hand Don Julian's son the position carried the possibility of reviving turmoil surrounding dynastic rulers. Politically, Tlaxcala was in a constant state of change, but officials honored previous decisions to maintain stability.

Sometimes the judgment of officials was necessary for situations in which elections could not provide decisions. The cabildo found itself in that predicament when the gobernador, Pablo de Galicia of Tizatlan, was to embark on a trip to Spain in 1562 to meet with the king. His projected absence required them to name a substitute who would serve the remainder of the term. The alcalde of Ocotelulco, Don Domingo de Angulo, voiced his opinion to the entire cabildo, "a substitute for the gobernador will be proposed for the conclusion of the term."<sup>212</sup> Similar declarations by other officials followed. But the regidores and alcaldes had to agree *how* an acting gobernador would be chosen, by Galicia himself or by them.

Don Diego de Paredes, alcalde of Tizatlan, who stated his opinion immediately after Domingo de Angulo, declared the need for a substitute, and also suggested that the cabildo should name him. Don Francisco de Mendoza of Tepeticpac disagreed; the decision fell upon Pablo de Galicia to choose a substitute from Tizatlan. They decided to vote on the issue. However, the result was a tie, nine votes in favor of Galicia choosing and nine votes in favor of allowing the cabildo to select the substitute. There was uncertainty after the tie because the gobernador deferred to the other officials, telling them to go ahead and decide. And the regidores deferred to him, urging him to have the final say. In the end, Galicia acquiesced and Baltazar Cortés, regidor from Tizatlan,

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<sup>212</sup> Ibid, 397.

became the gobernador.<sup>213</sup> The cabildo reviewed the conditions of Cortés' term: it was only in the event that Pablo de Galicia was away and he would serve as substitute only until December 1562 because early the following year elections for a new gobernador would be held.<sup>214</sup> Officials acted in a proactive manner to prevent any disruptions in their political system. They maintained uniformity despite an unexpected event such as the trip to Spain. In this instance the cabildo deliberated swiftly to settle the issue, but at times unforeseen circumstances caused them to question their role in Tlaxcalan society.

Six years earlier, in 1556, officials received an urgent message from the viceroy. He ordered the cabildo to elect a different gobernador. A long discussion followed because officials were not due to carry out an election for that specific office until the following year. The request caused confusion and they scrambled to find an explanation for the viceroy's endorsement of a disruption in elections. To replace a gobernador at mid-term carried grave consequences for the political order that reigned in Tlaxcala. Gómez de Santillán, the Spanish corregidor, had established that the position of gobernador would rotate among the altepetl every two years. Juan Xicotencatl was the first official to voice concern over how the viceroy's request jeopardized the rotation.<sup>215</sup> The alcalde Hernando de Salazar invoked pre-conquest tradition first to state that the altepetl functioned as one despite the more powerful influence of Ocotelulco, Tizatlán, and Tepeticpac. He posed the question that the other officials dreaded: was a separation possible?<sup>216</sup> They feared a breakdown in the peaceful transfer of power that characterized Tlaxcala. The system imposed by Gómez de Santillán had remedied

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<sup>213</sup> Ibid, 398.

<sup>214</sup> Ibid, 399.

<sup>215</sup> Ibid, 362.

<sup>216</sup> Ibid, 364.

disputes related to separate ownership of land according to altepetl; a balanced system was the outcome which the cabildo did not want to nonchalantly set aside in 1562.<sup>217</sup> They did not want to upset the balance and thus vehemently opposed the viceroy's request.

The gobernador at the center of the controversy was Martín de Valencia from Quiahuiztlan. The cabildo was unaware of what impediment he had for serving one more year as the gobernador. They looked inward at their character as a governing body. Alcalde Lucas García considered the situation an embarrassment because it could be interpreted as a failure, as the inability to abide by a rule.<sup>218</sup> Francisco de Mendoza viewed it as the corruption of Tlaxcala. What mistakes did Martin de Valencia commit, he asked, "how much did he steal," and "how much land and maize did he take from the people?"<sup>219</sup> One of their main concerns was the establishment of a precedent that would plant seeds of instability in the long run. They demanded transparency in the reasons for removing the head of native government.

The secrecy surrounding the reasons for replacing de Valencia directed the officials' attention to the viceroy. Juan Xicotencatl stated outright that it was "incorrect" if this request was a personal one for the viceroy just because "we [the officials] are macehualli of the emperor [King Philip II] and our tlatoani viceroy governs us."<sup>220</sup> The alcaldes express outrage at the prospect of replacing the Martin de Valencia for undisclosed reasons. The tide turned in the discussion when the regidores presented their opinions. They shifted the attention from the possible motives for the change to the role

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<sup>217</sup> Ibid, 364.

<sup>218</sup> Ibid, 363.

<sup>219</sup> Ibid.

<sup>220</sup> Ibid.



of the cabildo. Don Julián de la Rosa believed that the whole cabildo, not only Valencia, had committed errors. Nevertheless, he favored taking action against him for abandoning his duties because he was indeed "committing an error".<sup>221</sup> De la Rosa could accept that officials made mistakes, but it was unacceptable to dishonor the oath taken at the beginning of a term. Feliciano Ceynos, another regidor, suggested that an official had surreptitiously notified the viceroy to replace the gobernador.<sup>222</sup> His line of reasoning was the following: all officials take an oath and if someone took the liberty of reporting something damaging to the viceroy, the error falls upon the whole cabildo because those actions were in breach of the promise made to serve their city well.

The regidores favored taking the blame collectively but more importantly favored electing a new gobernador without compromising any other rules. An investigation, legal action against Martín de Valencia, or any other proceeding would have deepened any existing problems. Regidor Antonio Flores echoed the sentiments of de la Rosa and Ceynos. He declared that they would comply with the viceroy's decision to elect a new gobernador; shame should not fall upon the city because of this situation.<sup>223</sup> The cabildo wanted to find a replacement and get on with their usual affairs. In this instance they avoided a confrontation with Martín de Valencia for the sake of political order, but they launched legal cases and investigations in order to maintain and exercise their autonomy.

While the orderliness of this colonial government was ideal for the Spanish and, as the oath taken by officials suggested, there was an expectation that native officials had to act in the best interest of the crown, the cabildo took measures to protect Tlaxcalan

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<sup>221</sup> Ibid, 364.

<sup>222</sup> Ibid.

<sup>223</sup> Ibid, 366.

interests. A significant issue despite royal orders Spaniards lived in Tlaxcala or allowed their animals to graze freely thus causing trouble with natives. Officials were not passive about those conflicts nor about the treatment of their people. Therefore, it was normal for a procurador to be part of meetings regularly. Two things are evident: there was sufficient conflict to warrant the need for legal representation and officials were ready to build cases when problems occurred.

The cabildo allotted money for legal representation since they bore the responsibility of protecting Tlaxcalans. On May 2, 1548 the "caciques" Don Juan de Vargas, Don Juan Maxizcazin, Don Julián Motolinía, and Don Francisco de Mendoza went to Mexico City to secure the representation of a Licenciado Alemán. They accorded that the lawyer was going to "help and favor them in all of their lawsuits filed and that would be filed."<sup>224</sup> They sought legal representation for a full year from Alemán, beginning on the previous day, May 1st. He was going to help them resolve current disputes and the ones they anticipated in the near future whether officials were defendants or the plaintiffs in lawsuits. The cost for Aleman's services was sixty gold pesos to be paid in three equal parts every four months until there was no outstanding balance.<sup>225</sup> The nature of colonial society was such that abuses were rampant and natives saw legal defense as a necessity. It is telling that they anticipated involvement in lawsuits.

Recurring conflicts plagued both nobles and macehuales thus prompting officials to organize a defense on their behalf. The protection of land and its use in Tlaxcala was a contentious issue that kept the procuradores busy. The root of the problem was the

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<sup>224</sup> Ibid, 249.

<sup>225</sup> Ibid.

residence of Spaniards in Tlaxcala and establishment of vast ranches. In February 1550 the corregidor Diego Ramírez suggested that Gaspar Daniel be chosen as the procurador because there were cases pending about damages caused by sheep, horses, and cattle in the city and surrounding areas; the people were "afflicted" by the animals.<sup>226</sup> Spaniards allowed their cattle to roam free grazing in lands that belonged to natives. Prior to 1550 other procuradores helped the cabildo tackle the illegal actions of Spanish farmers. In 1548 native officials took legal action against farmers whose herds caused "great damage" to their cultivated lands.<sup>227</sup> The Real Audiencia placed the burden on the owners of cattle to contain their herds when the crown issued the cédula of 1550 in May of that year.<sup>228</sup> The king issued the royal order months after Gaspar Daniel assumed his assignment. The cabildo was ever ready for the imbalances of power.

But the close of the sixteenth century brought changes and new challenges to native government. Tensions among the nobility caused officials to worry about usurpation of power and factions. The election of 1599 was a case in point. Officials had voiced concerns about monopolizing leadership and positions. The last election of the century addressed the problem percolating in the cabildo and set off fierce reactions from certain officials.

Controversy overshadowed the election results, and the political customs of Tlaxcala emerged altered for the seventeenth century. The new year began like the previous ones, with undisputed winners for the positions of alcaldes, regidores, and other

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<sup>226</sup> Ibid.

<sup>227</sup> AHET, caja 2. 1561, exp.3, ff. 79v-83v, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 360.

<sup>228</sup> Vasco de Puga, *Cedulario de la Nueva España* (México, 1563), facsímiles del impreso original, México, Centro de Estudios de Historia de México, Condumex, 1985, ff. 173/173v. y 132v-133, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 362.

officials. Don Toribio González, the gobernador, acted swiftly to report an irregularity in the election before the Spanish gobernador, Don Tristán de Luna y Arellano. There had been a violation of royal orders because officials who served a term had to wait a period of two full years before regaining eligibility to run for office. The purpose of the rule was to give all Tlaxcalans eligible for candidacy an opportunity, and for the "well-being and peace of this republic."<sup>229</sup> Among the newly elected officials, four incumbents, Don Gabriel Cortés, Don Gonzalo Martín, Don Francisco de Tapia, and Joaquín de Santisteban violated the royal order. González pointed out that these men served the previous two years.

The problem became about much more than four officials who had served less than two years before running for office in 1599. Don Tristan de Luna y Arellano partially abrogated the election but named fourteen ineligible officials, not just four. A second election took place but resolved nothing. By January 25th a total of three elections had been held with a fourth one in the making.<sup>230</sup> In February the issue was laid to rest when the native gobernador, Toribio González, and the *alcaldes* agreed to uphold the results from the first election thus ending the nearly two-month ordeal. In the end the *cabildo* concurred that they not break the tradition of honoring the first election of the year. To portray the politics of colonial Tlaxcala as uniform and uncomplicated is to paint an unrealistic picture of how natives clashed over decisions and interpretations of royal law. Even as the *cabildo* battled within itself, it kept order in other aspects of

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<sup>229</sup> AHET, caja 8, 1598, exp. 11, 1f. AHET, caja 8, 1598, exp. 1, 1f. AHET, caja 9, 1599, exp. 1 in Carlos Sempat Assadourian and Andrea Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI* (México: Consejo Nacional para la Cultura y Artes, 1991), vol. 6, 426.

<sup>230</sup> *Ibid*, 430.

Tlaxcalan affairs. Therefore, political changes did not spell the end of indigenous agency at the dawn of the seventeenth century.

The economy of Tlaxcala was heavily influenced by indigenous officials. They were the integral part of the equation in converting tribute into cash for the crown, taking care of assets and finances, regulating prices, and finding the monetary resources necessary for religious ceremonies and festivals. The cabildo oversaw any detail that could have an economic impact on Tlaxcala. Some bore a direct relation to Spain, such as tribute, and others, land and labor, had a direct effect on the wealth generated or exchanged within the city. The portrait that emerges of town government is one of active decision making officials that stopped to ruminate over the implications and possible effects of their actions.

One of the most significant tasks that fell on native officials was the delivery of tribute maize to its designated destination where it could then be taken to an auction house for its conversion to cash for the king. In December 1548 the tlatoque secured the services of the cabildo's translator, Luis de la Torre, for their pending trip to Cuertlaxcoapan (Puebla), the place where they had to deliver the maize tribute.<sup>231</sup> Eventually the tribute made its way to Mexico City where Spanish officials auctioned off, and sometimes this was done without the maize actually having arrived to the city.<sup>232</sup> As Gibson pointed out, the treasury gave the "civilian investor" with the highest bid "a power of collection" in the amount of 7,200 fanegas of maize, not the full 8,000 since the church collected its tithe.<sup>233</sup> The investor became the middleman who assumed the

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<sup>231</sup> Celestino Solis et al., *Actas de Cabildo de Tlaxcala 1547-1567*, 252.

<sup>232</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 178.

<sup>233</sup> Ibid.

financial liability of delayed maize deliveries or in a worst case scenario, no delivery at all. Spanish officials offered some security to said investor, but his risk was considerably high compared to the royal treasury which secured it money first.<sup>234</sup>

With the Spanish expecting a complete delivery of 8,000 fanegas of maize, Tlaxcalan officials had pressure to collect no less than that amount and to be punctual. The first decision they made was how much tribute to collect from the upper and lower classes. The cabildo factored in the poverty of macehuales; therefore, the nobility had to contribute a few fanegas of maize (up to seven) whereas the former had to give less than one.<sup>235</sup> Officials were under constant stress to strike the perfect balance between meeting tribute quotas and avoiding excessive demands from macehuales who physically produced nearly everything for the city.

The middleman awaiting to collect 7,200 fanegas worth of money was at a disadvantage, but not nearly as much as the representatives of the native community. As leaders they could not fail to collect and deliver the maize. When they ran into trouble towards the end of the sixteenth century, the amounts accumulated onto the upcoming year's totals, the sale of assets helped meet quotas, or they lost their freedom when Spanish officials incarcerated them over tribute arrears.

The cabildo had more functions besides collecting tribute for the crown. Within Tlaxcala it was also seen as a financial institution with lending powers. The celebration of *Corpus Christi* found other institutions in the city without the monetary resources to properly observe the Catholic holiday. In January 1549 a cofradía and the hospital needed financial backing in order to purchase a red cloth from Castilla used to make

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<sup>234</sup> Ibid.

<sup>235</sup> Celestino Solís et al., *Actas de Cabildo de Tlaxcala 1547-1567*, 242-243.

thirteen robes for the celebration. The town government gave a loan of 40 pesos in tomínes for this purpose.<sup>236</sup> Another role officials fulfilled was that of pious Christians. And others looked to them for support, in this case financial, to comply with royal expectations of religious devotion.

Religious activities had close economic ties and thus the cabildo was heavily involved in the logistics of celebrations like *Corpus Christi*. If the problem was funding, they had to overcome any exigencies because skipping a holiday would have been unacceptable. It appears that officials were active Christians. Perceived indifference toward the church would have warranted suspicion or distrust as the Franciscans had converted Tlaxcalans not too long ago. In the name of faith, officials made ends meet through any means necessary.

On May 10, 1549 the cabildo found itself in the company of the Spanish corregidor, Diego Ramírez, to discuss the Corpus Christi procession in which the officials would be active participants. Each had to wear a fine, long robe decorated with gold. They were to be made in Tlaxcala, since they had to match, and the mayordomo had to store this clothing until the specified day.<sup>237</sup> Officials knew this incurred a steep expense; therefore, if they did not have enough money for all of the robes, they agreed to sell off an asset belonging to the city.<sup>238</sup> As will be demonstrated later, the officials had their reservations about losing control of land or other sources of wealth, nevertheless they compromised and religion was one of those instances.

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<sup>236</sup> Ibid., 255.

<sup>237</sup> Ibid., 260.

<sup>238</sup> Ibid., 261.

In a subsequent celebration for the same holiday in 1555, the role of native officials was different yet they manifested the same leadership. In this instance one can see how Tlaxcala became mobilized to gather the resources for such a large celebration. The decoration of the city included people from surrounding towns like Atliuetzyan, Topoyanco, and others. The officials ordered the merinos from other parts of Tlaxcala to oversee the natives who helped decorate. The materials they gathered were flowers, tree branches and twigs, costumes, and crafts such as blond wigs and angels' wings. All of the goods gathered under the direction of the merinos had to be taken to the church; nothing was to remain elsewhere in Tlaxcala.<sup>239</sup>

Officials worried about possible abuses against macehuales during religious festivities. A warning followed the strict order to take all materials to the church. Without clear specifications, the cabildo gave a general admonition that nobody was to collect turkeys, cocoa, nor money (tomines) in the name of the gobernador nor the alcaldes. Doing so was punishable by incarceration if this type of deception was carried out any place in Tlaxcala.<sup>240</sup> Commoners provided the materials and foodstuffs for celebrations, but officials tried not to burden them. For instance, officials anticipated that the production of the angels' wings crafted for some of the costumes was going to need more money. They approved a small contribution from macehuales in the amount of one ear of corn and two cacaos. The justification, of course, was that these donations benefitted the church.<sup>241</sup> The cabildo prevented unjust, personal enrichment from sacred holidays.

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<sup>239</sup> Ibid, 350.

<sup>240</sup> Ibid.

<sup>241</sup> Ibid.



Religious celebrations affirmed the beliefs instilled in Tlaxcalans, both noble and poor, by the Spanish. However, the cabildo also tended to economic issues that affected the mundane precincts of colonial life. The concept of a market with supply and demand is anachronistic for this time and place, but there had to be a balance in the kinds and amounts of goods available for purchase locally. Gómez de Santillán, an *oidor* from the Real Audiencia, arrived in Tlaxcala in 1550 to remedy the "great disorder and shortages" plaguing the marketplaces of the city.<sup>242</sup> He dictated sweeping changes to take effect immediately after the town crier notified the natives at the *tianguis* (marketplace). Vendors had to abide by the list of prices set by the *oidor* and he forbade anyone from selling products out of their homes. The overhaul also targeted abuses by Spaniards who saw goods produced by natives as theirs for the taking without actually purchasing them.

The muscle behind the enforcement of the new prices fell on the cabildo. The regulation of the marketplaces helped combat swindling because vendors received the worth of what they grew on their plots of land or the animals they raised. The currency in circulation was cacao beans. For example, a turkey hen was worth 100 cacaos whereas a rooster from Castilla cost 20 cacaos.<sup>243</sup> The products ranged from poultry to different kinds of chilis as well as prepared food like tamales. Everything had to be available in the *tianguis* otherwise punishment would be as severe as a public beating in the central plaza for all to witness.<sup>244</sup> Tlaxcala had to be self sustaining otherwise its production for the crown would be in jeopardy.

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<sup>242</sup> Ibid, 277.

<sup>243</sup> Ibid.

<sup>244</sup> Ibid, 278.

The cabildo stepped in to restore balance when natives failed to plant and harvest a staple such as corn in favor of a product, like cochineal, considered a commodity. The crimson dye derived from the parasitic insects on cacti was used to color cloth. There was demand in New Spain and in Europe as well. Sellers of cochineal did so well according to the accusations of officials, that their neglected fields intended for corn had become overgrown with grass as a result of abandonment. The "lazy" owners of the prickly pears purchased corn and chilis from the markets but lacked incentive to harvest corn because their handsome profits deemed it unnecessary.<sup>245</sup> Foresight motivated officials to act against large scale cultivation of cochineal because they feared that Tlaxcala faced precarious food shortages in the near future. They noted how eight or nine years' time had made a difference; fewer people cultivated crops in 1553 than in the past.<sup>246</sup> Their priority was production of corn, chilis, beans, and other foods.<sup>247</sup>

The financial obligations of Tlaxcala included the salaries of native officials. They resolved to set up eight stores to be rented out for the generation of funds for the salaries of the gobernador, alcaldes, regidores, and scribes.<sup>248</sup> The guidelines for the stores specifically stated that the rents collected were strictly for these cabildo officials. There were advantages to leading Tlaxcala, but officials were also under scrutiny and held accountable for tribute arrears. The projected stores represent a legitimate way to raise money to compensate officials rather than extracting money from macehuales in illicit ways.

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<sup>245</sup> Ibid, 331.

<sup>246</sup> Ibid, 333.

<sup>247</sup> Ibid.

<sup>248</sup> Ibid, 301.

Land and labor formed the backbone of the preoccupations of the indigenous leadership. The defense of their assets rested upon the shoulders of officials if they were to hold some claim to what had been theirs before the conquest. They monitored the inflow and outflow of money with vigilance. The cabildo entrusted the pilli with the responsibility to keep a close eye on how the government spent funds. Domingo de Angulo and Bernardino de Santa Cruz, both mayordomos, had to guard the community's assets with special attention to expenditures. The cabildo warned them against neglecting their duty. They had to maintain and update a ledger and because they were producing an official written document, both mayordomos had come to a consensus about who their scribe would be.<sup>249</sup> Officials had to account for every tomín spent or collected because whether or not they handled their finances properly would eventually come to light when time came to give the crown tribute.

Land was the fundamental possession that the cabildo tracked closely because it was the economic medium that literally produced the wealth needed for the Spanish and for the community. Officials monitored its use because fallow land was a liability, a missed opportunity to grow food or crops later cashed in for tribute. All land within the confines of Tlaxcala had to be used for agriculture during the planting season. The cabildo launched an investigation of land perfectly suitable for farming that nobody had ever bothered to weed. The tract of land lying in idle "waste" was located along the Atoyac River.<sup>250</sup> According to the cabildo, it was "a necessity" to transform the land into an "asset of the community of Tlaxcala."<sup>251</sup> First they had to find out who owned it in

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<sup>249</sup> Ibid, 293.

<sup>250</sup> Ibid, 328.

<sup>251</sup> Ibid.

order to make an offer, albeit low, as compensation for taking the land. Officials wanted to keep the proprietors "satisfied" with some tomines while maximizing what the land could produce. Another alternative in order to keep the peace was for land to be exchanged; the owner would receive a plot of land at another location in exchange for this one.<sup>252</sup> The cabildo tried to keep a balance between respect for ownership of the most prized of possessions and the responsibilities of Tlaxcala.

In the same cabildo session where the discussion took place about the fallow land by the river, it reached a decision in order to strongly discourage the practice of leaving land to be overrun by grass and weeds any further. Officials planned to offer a form of payment or compensation first and then more drastic measures would follow if it was refused. Landowners who failed to cultivate would face dispossession with the blessing of the viceroy.<sup>253</sup> Officials demonstrated their willingness to give landowners a chance to act in the best interest of the community, yet would show no tolerance if these failed to comply for the advantage of the community.

The cabildo took issue with land visibly left in a state of abandonment and closely followed changes in the holdings of the community. In December 1553, much to their dismay, officials noted the "disappearance" of four estancias. The tracts of land previously claimed by Pedro Duran, Juan Ochoa de Laxarte, Diego Muñoz, who were not natives, and some priests ceased to exist because of the legal proceedings initiated in his capacity as a judge by Francisco Verdugo, the corregidor.<sup>254</sup> Officials agreed to spend "a lot of money," from the community, the pilli, and the macehuales, on a lawsuit to restore

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<sup>252</sup> Ibid, 329.

<sup>253</sup> Ibid.

<sup>254</sup> Ibid, 338.

their ownership.<sup>255</sup> They responded to any hindrance of the proper use of land if the actions of Tlaxcalans caused it and also if unscrupulous actions by Spanish officials were to blame.

The close ties of macehuales to the land directly influenced the actions of native officials towards the commoners who performed labor. This class was mired in ambivalence as they found themselves in a position to be exploited, but both the crown and native government needed to safeguard them. The task of defending them bore a heavier weight on the shoulders of the cabildo because their labor on the land had a direct relationship to tribute. When Geronimo Flores, the corregidor, finished his term in office in October 1555, his exit included a royal order granted to the cabildo from the king. In it, he addressed the need for protection of macehuales against injustices committed against them. The culprits were passersby and other persons who, as they made their way through Tlaxcala, took haciendas, in this case plots of land, the goods they had for self-sustenance without paying them, and treated them badly in other ways.<sup>256</sup> The cabildo saw the robbery of goods and property from macehuales as an infringement on their community as well as on the resources which belonged to it. Officials spent a great deal of time and money on the defense of macehuales throughout the entire colonial period.

The condition of commoners was central to sweeping changes proposed by the viceroy in 1560. At the beginning of that year, officials debated how a *congregación*, or concentration of dispersed native peoples, would adversely affect macehuales. The goal was to obligate natives to move closer to cities and town or to churches because scattered populations undermined labor, tribute collection, and Christian instruction. In 1560 the

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<sup>255</sup> Ibid.

<sup>256</sup> Ibid, 354.

cabildo responded to the crown's call for congregaciones across New Spain. They had strong misgivings about relocating macehuales to new places within Tlaxcala. Different worries about macehuales' everyday lives which included houses, property, and land fueled their discordance.

The tlatoani anticipated "much affliction and anguish" if the changes took place.<sup>257</sup> The abandonment of houses by macehuales was foremost in the minds of the cabildo. They asked directly, "Who will come to build their houses?"<sup>258</sup> The list of possessions to be left behind was comprised mainly of foodstuffs such as cacti, maize, fruits, magueyes, zapotes, chayotes, and peaches. They would also suffer hardships in moving their animals including dogs and fowl, most likely chickens and turkeys.<sup>259</sup>

The loss of land used to cultivate crops also distressed the cabildo. They wanted to know what would happen to the land once it was left behind. The uncertainty surrounding settlement in a new place was overwhelming because officials did not know who owned the land where they would be relocated. It was also unclear where exactly the macehuales would make new homes for themselves.<sup>260</sup> To leave land behind was synonymous with leaving their means for subsistence behind. The importance of commoners to Tlaxcala became evident with the cabildo's request to send the somewhat wealthy pilli first ahead of everyone else. The session adjourned with plans to send the alcalde Juan Jiménez and the regidor Buenaventura Oñate to implore the viceroy to allow

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<sup>257</sup> Ibid, 379.

<sup>258</sup> Ibid.

<sup>259</sup> Ibid.

<sup>260</sup> Ibid.

this arrangement for congregacion.<sup>261</sup> The cabildo dutifully devised an alternative in order to be compliant, however, the changes were delayed until 1598.

For four years, between 1585 to 1589, the king and the Council of the Indies communicated with Tlaxcala about shifting the population. At the behest of the cabildo, the logistics of the move began in 1585. Royal authorities informed the Spanish gobernador, Alonso de Nava, about the cédula proclaimed by the king. Twenty five years after the crown tried to spur the cabildo into action, it was the latter's officials who decided the time was adequate for the congregaciones. The "indios principales and caciques" of Tlaxcala, Don Antonio de Guevara, Don Pedro de Torres, Don Diego Téllez, and Don Zacarías de Santiago testified that the native population was dispersed in the forests and ravines thus causing inconvenient lapses in proper religious indoctrination, they lived in a disorderly manner, and their behavior ranged from much idleness to forming uprisings.<sup>262</sup> They neglected to mention tribute, but these developments could not have been conducive to its efficient collection.

The reasons why natives, both noble and macehual, resisted relocation was because it was mired in uncertainty. The cabildo had asked a quarter of a century earlier: what would happen to the land left behind? The royal bureaucracy, however, demonstrated more sensitivity towards the concerns of their subjects than the clergy. The clergy, thoroughly analyzed the point of view of the natives who had to uproot themselves from their familiar surroundings. Granting possession of the land they currently inhabited (that is, before the move) was the key for natives' cooperation with

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<sup>261</sup> Ibid, 379-380.

<sup>262</sup> AGN-Indios, vol. IV, exp. 63, ff. 19-20, in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 244.

the changes.<sup>263</sup> The clergy wrote a detailed outline of their thoughts on the subject because religion was the first and foremost reason cited for congregaciones.

The Franciscans in Tlaxcala anticipated the arguments against moving likely to be vocalized by natives. And the clergymen planned how to respond in order to encourage them to move peacefully. The first reason for resistance anticipated was natives' reluctance to have what would become their former homes demolished. According to the clergy, the houses were not of good quality anyway, even the best ones.<sup>264</sup> The second point of contention was the rebuilding of houses. To that, the Franciscans responded that natives did not have *servicio personal* duties which would interfere with this aspect of the resettlement. What is more, idleness led to vice, thus rebuilding would serve as a safeguard against that danger.<sup>265</sup> Finally, natives feared land usurpation by Spaniards upon leaving. The king's intention to grant ownership of the land to natives was known to the Franciscans. This gave them grounds to dismiss those concerns and thereby quell their fears. Furthermore, natives were not going to resettle in places which were a great deal of distance from where they lived at the moment.<sup>266</sup>

The clergy sought royal preference for areas near monasteries in the form of titles of villas, or small towns. The other surrounding areas, they suggested, should be classified as villages to make villas a priority in the resettlement. And perhaps those villages could be relocated where tiny, rudimentary churches, or "*iglezuelas*," stood to

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<sup>263</sup> Ibid.

<sup>264</sup> *Código Mendieta. Documentos franciscanos. Siglos XVI y XVII*, 2 tomos, México, Imprenta de Francisco Díaz de León, 1892, ed. facsimilar, Guadalajara, México, Edmundo Aviña Levy, 1971, t. I, XXIV, pp. 136-141, in Carlos Sempat Assadourian and Andrea Martínez Baracs, vol. 6 of *Tlaxcala: Textos de su historia Siglo XVI* (México: Consejo Nacional para la Cultura y Artes, 1991), 246.

<sup>265</sup> Ibid.

<sup>266</sup> Ibid.



flourish from the inflow of native population.<sup>267</sup> They also touted their suggestions for congregaciones as a conduit for a more orderly governance of Tlaxcala.<sup>268</sup> According to them persuasion was contingent on the approach they used with the natives.

On June 15, 1598 the crown gave Doctor Luis de Villanueva Zapata, prosecutor of the Audiencia, instructions on how the congregaciones were to proceed in Tlaxcala. An escribano was to accompany him as he implemented the orders of the king. The primary role of the prosecutor was to protect the native population from abuses to prevent anything or anyone from burdening them as they relocated to other towns. He had orders to prohibit his officials and servants from assigning any duties to natives that would obstruct the process underway.<sup>269</sup> By the 1620s the shifts in population were evident when compared with census data from the mid-1550s. A little over twenty percent of towns listed in the figures for the sixteenth century had disappeared by the first decades of the seventeenth century.<sup>270</sup> The cabildo entered the seventeenth century with a population inhabiting different precincts of Tlaxcala but their leadership still intact.

Native officials acted as guardians of societal norms in colonial society. The values and mores imposed by the Catholic Church were the base for how the indigenous population was supposed to act. At times the cabildo intervened to correct unacceptable social behavior that they considered would have negative repercussions. Also, their decisions also provide a snapshot of what it meant to be indigenous in Tlaxcala as opposed to what it meant to be an African living in a predominantly native society, a

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<sup>267</sup> Ibid, 247.

<sup>268</sup> Ibid, 249.

<sup>269</sup> AGN-Indios, vol. VI, 2a parte, exp. 1008, f. 266v. in Sempat Assadourian and Martínez Baracs, *Tlaxcala: Textos de su historia Siglo XVI*, vol. 6, 251.

<sup>270</sup> Martínez Baracs, *Un gobierno de indios: Tlaxcala, 1519-1750*, 259.

theme that becomes apparent as an issue in Tlaxcala in the second half of the sixteenth century.

The case of cochineal offers a glimpse into how the lines dividing political, economic, and social issues were blurry, leaving officials to figure out what was the best recourse. As discussed above, cochineal upset the market economically because this commodity was more profitable than production of common (but necessary) foodstuffs. Officials acted against natives dedicating themselves to its production for that reason and because they affiliated it with laziness as well as pride. Cochineal growers allowed their land to fall into neglect thus increasing the probability of food shortages. The cabildo was also incensed at the display of pride and arrogance by natives who reaped profits. They spent money, or cacao, carelessly, "without consideration"; they overpaid for turkeys or pulque.<sup>271</sup> More importantly they offended God by failing to attend church on Sunday and on days of religious festivities. And finally, to compound all of this, cochineal growers openly disrespected the pilli.<sup>272</sup> All of these conflicts prompted closer supervision by officials.

Pulque and other alcoholic beverages provoked behavior that the cabildo disapproved of, discussed, and punished. On July 14, 1550 the appointment of two alguaciles, Felipe and Pedro, was the first item of business addressed. Their responsibility was mainly to apprehend any native they came upon who was drunk and transport them to the public jail to be punished.<sup>273</sup> The day before, officials expressed discontent with alguaciles who had neglected "great excesses because of drunkenness."<sup>274</sup>

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<sup>271</sup>Eustaquio Celestino Solis et al., *Actas de Cabildo de Tlaxcala 1547-1567*, 331.

<sup>272</sup> Ibid.

<sup>273</sup> Ibid, 307.

<sup>274</sup> Ibid 306-307.

They named alguaciles, Antonio Tesacacio, Hernando Teciciulci, and Bartolome Cabrera Alonso, for areas surrounding the city. However, the next day they named two for the city of Tlaxcala. Thus, a number of cases dealt with social issues which intersected with ideas about native labor that shaped the cases I am examining.

At the beginning of the year, the cabildo opted to fine natives who were found drunk. The penalty was half a tomín whereas the amount was higher, one tomín, for persons who made pulque. The alguacil had to apprehend the allegedly drunk native and present him or her to authorities so that they could officially determine if it was true or not.<sup>275</sup> By July the frequent occurrence of finding intoxicated natives throughout Tlaxcala pressed them to incarcerate them. The loss of freedom seemed like a more effective deterrent than a fine. Authorities were dismayed in Tlaxcala because their experiences made them believe that alcohol use was pervasive and the root of all evil. William B. Taylor found that there was no direct cause and effect between drinking and rebellion. Ironically, drinking took place during times of celebration which included festivities for patron saints.<sup>276</sup>

Another vice threatened the duties of natives, who were supposed to be industrious and be pious Christians. Much to the chagrin of authorities, both Spanish and indigenous, natives gambled and were otherwise idle, classified as vagabonds. On festive and work days they played games thus setting a bad example for the republic.<sup>277</sup> The consequences for gambling were fifty blows and a month-long sentence of working for anyone who would accept them. The offender would receive no salary, only meals. A

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<sup>275</sup> Ibid, 279.

<sup>276</sup> William B. Taylor, *Drinking, Homicide, and Rebellion in Colonial Mexican Villages* (Stanford: Stanford University Press, 1979), 156.

<sup>277</sup> Ibid, 372.

person's "quality and condition" would be cast aside and nobles as well as commoners would be punished. A Spaniard or indigenous principal faced a fine for gambling: half a peso of gold for each time an official caught them playing.<sup>278</sup> But those attributes figured heavily into the actual treatment of individuals in a colonial society. Commoners stood to endure physical punishment and loss of freedom whereas Spaniards and nobles simply paid a fine. But natives belonged to a social hierarchy in which there was one group below them. They had a lower status compared to a noble, however, they compared themselves to people who did not enjoy freedom.

That the foundations of colonialism rested on imbalances of power and race was obvious then and now. Spaniards were at the pinnacle of the hierarchy and Africans occupied the lowest level. Natives, mestizos, mulatos, and Africans coexisted in Tlaxcala, usually inharmoniously. In January 1550 the alcalde Gaspar Daniel was leaving office but not before the cabildo took an inventory of tools under his care. He was found to have all of them except for one piece, a *grillo*, or shackle.<sup>279</sup> The person who had it was the tlatoani Don Juan Maxiscatzin. It was in his home because he had used it to immobilize his male slave who had run away.<sup>280</sup> Without a doubt the status of Maxiscatzin increased because he possessed sufficient wealth to own another human being as chattel property. He was a colonial subject, but the racial ranking inherited from the Old World created a spectrum of subjugation.

Slavery was familiar to Tlaxcalans because it had existed in their pre-Hispanic society. After the conquest they had no desire to continue practicing it, with natives that

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<sup>278</sup> Ibid, 373.

<sup>279</sup> Ibid, 276.

<sup>280</sup> Ibid.

is. The cabildo reversed the classification of two natives, Goncelico and Cristóbal. Their case came to the attention of officials in April 1552. Both men belonged to the city but a pardon ended their status of *tlacohli*, or slaves. Officials proudly stated that nobody in Tlaxcala was a slave any longer. Shedding that label entitled Goncelico and Cristobal to rent out their labor.<sup>281</sup> That declaration of freedom was immediately followed by a clarification. "Los negros," or the blacks, "would not be liberated, only the two people mentioned."<sup>282</sup> The native government distanced itself from an institution that negated free will. In their arguments to the king, especially for privileges, the picture they paint of themselves is that of a free people to be differentiated from slaves.

The cabildo had an active role during the sixteenth century in matters of political, economic, and social significance. As leaders who lost power to the Spanish, they demonstrated resilience in their adjustment to colonialism. The Tlaxcalan leadership was no stranger to the threat of a mighty power as they had lived autonomously with the presence of the Mexica and the Triple Alliance nearby, autonomously. The nobility exercised as much control as possible in order to bolster the amount of authority and influence of their altepetl. Native officials would fight fiercely in the next century to have as much say in their future as they did during the sixteenth century.

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<sup>281</sup> Ibid, 323.

<sup>282</sup> Ibid.

## Chapter Four

### The Cabildo and the Spanish Response 1600-1650

The cabildo retained its autonomy into the seventeenth century. On September 27, 1641 the gobernador, alcaldes, regidores, caciques, and principales from the four altepetl defended their respectable place in Tlaxcalan society. The legal case began with a description of the "grand services their predecessors had performed for the crown of Castile in the pacification of Mexico City and other provinces."<sup>283</sup> The native officials in the Real Audiencia that day reminded Spanish bureaucrats of the loyalty of Tlaxcala. The plaintiffs were "descendants of noble houses and illustrious people" who had enjoyed a position of honor.<sup>284</sup> However, the nobility now endured poor treatment in the form of incarceration due to frivolous civil suits. The cabildo was indignant with the public humiliation of officials escorted to prison, their hands tied, as they endured shoving and verbal insults. The case concluded with an amparo directing Spanish officials to uphold the privileges granted by royal cédulas.

Native officials and macehuales survived, adjusted to, and acted as two populations, natives and Spaniards, gradually formed an interdependent, conflictive society. The decline of the cabildo described by Charles Gibson was not as definitive as he argued. He stated that the native institution lost power at the end of the sixteenth century because of Spanish intrusion in Tlaxcala and acculturation, or what he termed "Hispanization."<sup>285</sup> However, my argument is that based on litigation after that century, the cabildo still exercised power into the seventeenth century. Indigenous officials

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<sup>283</sup> Archivo Histórico del Estado de Tlaxcala, caja 56- exp. 15: f.: 4 (hereafter AHET 56-15: f.4).

<sup>284</sup> Ibid.

<sup>285</sup> Charles Gibson, *Tlaxcala in the Sixteenth Century*, 126.

initiated legal cases that affected various precincts of native life whether it was labor or the discord created by the African population in Tlaxcala as the indigenous people perceived it.

The activity of the cabildo during the first half of the seventeenth century demonstrates that for the cabildo not all was lost after the sixteenth century.

Acculturation occurred, but not at such a fast rate that native officials were rendered powerless nor did social classifications blur significantly. The picture that emerges is one of native officials passionately demanding the legal rights they exercised since the prior century. They continued to play a crucial role in labor affairs, tribute collection, and macehuals had their support in order to sue Spaniards who forced them to work on haciendas. This chapter examines how the many places with a demand for native labor would cause the cabildo to defend Tlaxcala's commoners. Places in central Mexico such as Toluca and Huehuetoca wanted a large share of labor, but native officials challenged those demands.

The cabildo remained undeterred by Hispanization and social disruptions by Spaniards in the seventeenth century. Decades of the crown's indifference and lack of empathy had done little to weaken the resolve of natives who spent money and energy to win in court. Victories in the Juzgado or the Real Audiencia yielded no reversal of the power structure of colonialism, but it was the arena where an indigenous person's voice could not be silenced completely. The reactions of Spaniards demonstrated their frustration with the litigation of native plaintiffs.

The message to the Spanish from natives, nobles and macehuals, was persistent and compelling in the seventeenth century. Indigenous experience with the legal system

had occurred shortly after the conquest and still used it to respond quickly to infringements of their rights a century later. The gobernador and commoners of Tlaxcala, for example, made an appearance in the Juzgado in January 1620 because the outcome of cabildo affairs had fallen into the wrong hands. Two unnamed Spaniards purchased the offices of procurador with the purpose of interfering with native government.<sup>286</sup> They tried to work around the fact that natives went to court.

Both Spaniards had interest in legal cases pertaining to principales and macehuales; the gobernador noticed that they targeted those more than others. They refused to put their signatures on such cases knowing full well that their refusal halted legal proceedings. The plaintiffs requested an amparo rendering the signatures unnecessary for any petitions and that the Spaniards be prohibited from having a say in such petitions.<sup>287</sup> The viceroy granted the amparo and required both procuradores to have an audience with him if they wanted to interfere in any way with a petition.

The fact that an indigenous person could point a finger at an aggressor was a thorn in the side of some Spaniards. Those who wanted to get away with committing abuses devised ways to limit access to legal recourse. The gobernador, alcaldes, and regidores confronted an obstacle in 1635 when they complained of a new, bogus rule obstructing their pursuit of justice. Since "time immemorial," they argued before the viceroy in Mexico City, the principal of an altepetl served as a procurador who gave legal representation to natives in order for them to have some hope of securing an amparo protecting them against abuses or exploitation.<sup>288</sup> The probability of justice without the

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<sup>286</sup> AGN Indios 7- 449: f.213v.

<sup>287</sup> Ibid.

<sup>288</sup> AHET 47-1: f.1.



principal functioning in this capacity lowered the chances of obtaining an amparo. The cabildo officials stated that "the justice of said province [Tlaxcala]" rejected this type of legal representation at the behest of the Spaniards who knew that charges were going to be filed against them by natives.<sup>289</sup> According to officials, plaintiffs would be practically "defenseless" without a principal to offer his aid. The case concluded in their favor less than five months later in early April 1636 when Captain Don Juan Ramírez de Arellano, *justicia mayor*, received notification that it was permissible for principales to legally represent natives. The cabildo was careful to respond to attacks on legal procedures that made them susceptible to even more abuses.

If natives officials could be called stewards of legal protocol, they also had that same role when their reality was at odds with the cédulas granted as early as 1539 excusing Tlaxcala's population from labor. The cédulas of 1563, 1583, and 1585 fueled the arguments of natives in 1614 and again in 1641. The contents of those royal orders provided fodder for objections to the seemingly impossible demands of the crown. Natives argued their points carefully and in a marked difference from previous years, their cases included long transcriptions of the original cédulas to emphasize how much they helped Spain's empire at the beginning and how much they had done since.

Natives tried to use the law in order to chip away at one of the core demands of colonialism, labor. They cited multiple cédulas within a single case that praised their help during the conquest and declared exemptions from labor in places such as Los Angeles in neighboring Puebla and in the Valle of Atlixco, located southeast of Puebla. *Sevicio personal*, which was supposed to end in 1545, was taxing on the population,

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<sup>289</sup> Ibid.

which also responsible for massive drainage projects in central Mexico and other public works such as construction of churches.

The Valle of Atlixco was problematic for native officials because Spanish landowners had used their influence to divert more labor to that area. The *cédula* of 1583 specifically cited the imprisonment of the *gobernador*, *alcaldes*, and *regidores* and their mistreatment as a motive to protect them under this royal order. And natives were relieved from going to Atrisco because they had helped "with the pacification of this land."<sup>290</sup> The crown could not deny what it had promised decades ago. A list of privileges earned by one generation of Tlaxcalans was the means by which subsequent generations tried to force the crown to reduce the labor they had to perform. If what Gibson argued was true, that Spanish law in the New World was merely "an approximation of historical happening, or a commentary upon it," instead of a catalyst for change, one has to consider the reasons and the significance of natives' persistence in going to court time after time if nothing was going to change.<sup>291</sup> For the plaintiffs who gained *amparos*, the law was a chisel to strategically chip away at the monolith that was colonialism, especially its labor requirements.

Labor was needed in many places within Tlaxcala and its surroundings thereby fueling protests from the *cabildo* and other natives; these are the "historical happenings" apparent in legal cases. It may be true that such legal wrangling did not overturn Spanish control, but there is evidence that the drawn out, expensive battles in court were effective. The anger from Spanish defendants and the acts of revenge against natives are signs of the success that an *amparo* had for the latter. If the law had absolutely zero value, why

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<sup>290</sup> AGN Indios 13-123: f.107.

<sup>291</sup> Gibson, *The Aztecs Under Spanish Rule*, 235.

would a ruling in favor of Tlaxcalans, regardless of social class, incite violence from those they accused in court?

The cedula for labor exemption from the Valle of Atrisco was at the top of the long list of duties that natives had performed up until 1640. A number of drainage projects closer to Tlaxcala, including Huehuetoca, Amecameca, and Mexicalzingo, accounted for the loss of labor that could have otherwise been performing duties that directly benefitted natives. In the summer of 1640 the principales, natives, and common began their arguments against *servicio personal* with an immediate reference to the "conquest and pacification of this kingdom," a fruit of their aid.<sup>292</sup> Their loyalty as subjects had to be conspicuous rather than their complaints of excessive work which could bring into question their allegiance to the king.

Once their arguments opened with a reminder of their services to Spain, the plaintiffs summarized what the *cédulas* contained. The principales maintained that Tlaxcalans had never been exempt from *servicio personal* such as building royal houses for the Spanish conquistadors and settlers in addition to making repairs to the dry stone walls of San Cristóbal Ecatepec, and providing large numbers of *macehuales* to change the course of water flow in Amecameca and Mexicalzingo.<sup>293</sup> The most important reason for having brought the case to court was the disruptions caused by the *servicio*. The population from Tlaxcala was bearing a disproportionate burden because nobody else was helping with the *desagüe* of Huehuetoca. Sole dependence on them led to a high death rate and diminished harvests because this labor disrupted their regular planting season. Cabildo officials were under pressure to hand over a large number of natives

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<sup>292</sup> AHET 55-12: f.2.

<sup>293</sup> Ibid.

without regard for consequences in other parts of natives' lives.<sup>294</sup> The last motive for citing royal cédulas was the upcoming visit of the viceroy. There was an urgency to prepare the places where the Excelentísimo Señor Duque de Escalona was going to visit and to repair the roads he would use for his journey. The plaintiffs' acknowledgement of this particular duty was the only part of the case that the court acted upon. The cabildo risked that royal interests would overshadow their own because royal events took precedence like in this case, but they pressed on unaffected by such a turn of events.

The same demands, less than a year later, in February 1641 yielded the results sought by the principales, common, and natives. The labor duties cited above formed part of the new case. This time a prosecutor of the king gave the order to dispatch a mandamiento saying that the royal cédulas be "honored and carried out."<sup>295</sup> Closing statements appealed to the patronage of the king. They wanted him to defend them so that they could enjoy his mercy and favor with absolute liberty.<sup>296</sup> On February 26, 1641 the Spanish gobernador, Don Francisco de Pereda y Lazcano received the petition with the mandamiento. These cases cited preferential treatment guaranteed by cédulas, and this belief was implicit when natives litigated on any grounds.

From the point of reference of the cabildo, the cédulas played a major role in defining the proper treatment of Tlaxcalans and this included the pressing issue of labor in the Valley of Mexico. The crown's assumptions about the availability and movement of indigenous peoples within that region was out of touch with the experiences of officials and macehuales. Across the Atlantic, the king was certain that a pool of

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<sup>294</sup> Ibid.

<sup>295</sup> AHET 55-32: f.1.

<sup>296</sup> Ibid.

thousands of natives could easily complete all of the changes envisioned by the colonial bureaucracy. Matters were more complicated because of the number of simultaneous projects in need of native labor, fluctuations in the population, and reactions to the mistreatment of macehuales.

Repartimiento funneled labor into the construction of houses, churches, and public buildings in Tlaxcala. Those obligations were local, but projects such as the drainage of Mexico City and Huehuetoca forced macehuales to travel out of their provinces. Complaints about the difficulties of gathering the required number of macehuales were common. The number of ongoing projects at any given moment exacerbated the problem. Mexico City was prone to flooding and macehuales had to virtually change the geography to prevent this from occurring. Two rivers descending from the mountains, flowing through the northern and southern part of Amecameca, had to be diverted to Chimalhuacán. Extensive digging over long distances would complete the project. Ditches made in 1608, approximately twenty-two years earlier, were included in the attempt to change the flow of water.<sup>297</sup> That same year in 1630, the city of Huamantla to the east of Tlaxcala, also decided to address the constant flooding. The solution was to begin a drainage project diverting water to nearby lagoons. The work in Huehuetoca faced setbacks because Huamantla needed 1,500 macehuales over the course of fifteen months. Officials knew labor had to come from towns further away because the surrounding ones already had four repartimientos to serve.<sup>298</sup> The demand for so much labor caused the cabildo to point out that there simply were not enough macehuales to do all of that back breaking work.

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<sup>297</sup> AHET 34-4: f.55.

<sup>298</sup> Ibid.

The shortage of labor was evident in last minute decision making that redirected large groups of commoners from one site to another. In May 1630 the viceroy instructed the gobernador to take 500 workers destined for Amecameca to Mexicalzingo instead for reparations of roadways. The mandamiento gave Don Gregorio Nacianceno strict orders to expedite gathering all of the men so that the clergyman Padre Fray Sebastián de Garibay could receive them soon.<sup>299</sup> Spanish officials had to prioritize some projects over others thus still leaving gaps in the completion of any single site.

Huamantla did not receive the labor it needed; three years later officials still shuffled macehuales to Huehuetoca from other places. Officials had their work cut out for them when they eyed the silver mines of Taxco, in the present day state of Guerrero, for more labor. In 1631 the viceroy declared that service in two repartimientos, the mines and the desagüe, was unfair. He asked for the rolls of pueblos and natives who mined in order to excuse a certain number from serving in Huehuetoca. Toluca and Huachinango had to send two hundred and one hundred macehuales respectively to the desagüe while 112 natives from Cuernavaca had to report to mines with another sixty-eight from the valley of Toluca.<sup>300</sup> Redistribution of labor masked a serious problem that the cabildo pointed out to the crown.

Native officials pointed out why it was extremely difficult to acquire all of the labor that the projects needed: the crown was overestimating the size of the Tlaxcalan population. As of 1632 the number of natives allotted for the desagüe stood at 640. This was calculated from a total of 16,000 tributaries, in other words four percent. The more accurate figure on which to base the plausible amount of labor Tlaxcala could give was

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<sup>299</sup> AHET 35-9: f.1.

<sup>300</sup> AHET 34-44: f.55.

12,000 tributaries according to the cabildo. Four percent of that (480) reduced the requirement by 160.<sup>301</sup> The lower figure, they argued, was the result of high death rates, the absence of natives, and a recent review of the previous inaccurate count. In a futile attempt to come up with 640 macehuales, officials routinely searched farms and obrajes to meet the quota, but failed anyway because the crown did not account for "missing" natives. Even more problematic was the fact that the figure was inflated, and thus was incorrect, because widows and single women had been included by Diego de Ochandian, the official in charge of counting tributaries. They persuaded the viceroy and he ordered the four percent to be based on the updated count with one condition, not one native could be missing.<sup>302</sup> The success of the cabildo in this case was a significant precedent because the viceroy acted on his own volition to address changes in the indigenous population.

Widespread illness characterized the year 1634. The illness generally identified as *cocoliztle* took a heavy toll on natives. A year later the viceroy recognized that although the *desague* of Huehuetoca needed to continue at a fast pace, the natives needed respite from arduous labor. He acknowledged the reduction from 640 to 400 and lowered it further to 100. Therefore, a total of 130 macehuales, 100 from Tlaxcala and thirty from the town of Calpa, had to be delivered by a *mandón* every thirty days beginning on February 8, 1635.<sup>303</sup> However, the viceroy made the exception with a condition. If they failed to provide the 100 natives, he threatened to rescind this change and demand the entire four percent. His orders instructed Spanish officials to provide any additional help

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<sup>301</sup> AHET 41-12: f.1.

<sup>302</sup> Ibid.

<sup>303</sup> AHET 45-20: f.2.

to the gobernador or other cabildo members needed to gather macehuales. Despite the conditions, it was a significant gain for natives because they struggled often to meet labor quotas.

Nature depleted the labor force noticeably in 1634, but another factor claimed natives in large numbers thus shrinking the number of macehuales, Spaniards. As labor demands grew increasingly difficult to meet, the gobernador and his officials pinpointed the reason why. Spanish farmers appropriated a large amount of the natives in Tlaxcala. Therefore, on paper the numbers made sense for repartimiento, but the people on rosters were nowhere to be found. As a result, indigenous officials went to court in their own defense to avoid unfair blame and in the defense of natives.

On September 15, 1631 Cristóbal Pérez, a sixty year old Spaniard, found himself in the public jail giving testimony. He was in that situation because about a week prior Joseph Dávila, an escribano acting in the place of the teniente of Huamantla, showed up at Pérez's farm with a court order to gather natives for the desagüe in Huehuetoca. Dávila presented the mandamiento and Pérez proceeded to tell him that he could go look for the natives himself. The defiant act that also led to his arrest was having contacted other farmers to plan blocking the execution of the court order Dávila had. Pérez confessed knowing about the viceroy's orders to hand over natives and said he had given eight for the repartimiento the first time and then three. Then he denied any alleged hostile actions against the court order presented by Dávila. Pérez did not retract his refusal to follow orders but claimed that the natives on his farm had suffered from cocoliztli, beginning



about three months ago.<sup>304</sup> Labor pitted Spaniards against the cabildo with no sign of native leadership wanting to relinquish power.

In matters of labor, the viceroy acted as a mediator between both groups. Cabildo officials switched sides to collude with the Spanish out of convenience, but the former fought to remain in control of what occurred in the altepetl. Lower level town officials from the Spanish government acted as the agents of farmers to effectively coerce thousands of natives. These calculated efforts caused the same, limited pool of workers to be summoned multiple times for repartimiento. The cabildo also fought for the abuse of natives at the hands of Spaniards to stop.

Lower level officials from Huamantla figured prominently as defendants because a predominantly Spanish population lived there. Don Francisco de la Cerda, alguacil of Huamantla, habitually rounded up any natives he found and distributed them to farms within and outside of his jurisdiction. The gobernador and the rest of the cabildo asked that the viceroy strip him of his *vara*, or staff of office. The alguacil was to be ousted from his position at the conclusion of an investigation into the claims against him.<sup>305</sup> It frustrated these lower officials to have their actions disclosed and resented any meddling in their (lucrative) alliances with farmers.

Cabildo officials sued but also went to the rescue of natives on their own with acrimonious results. A principal of Tlaxcala, Don Miguel de Morales, tried to intervene when an unnamed teniente in Huamantla also gathered "indios de servicio," which was illegal, for Spanish farmers in exchange for "money and other gifts."<sup>306</sup> Repeated abuses

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<sup>304</sup> AHET 34-4: f.55.

<sup>305</sup> AGN Indios 12-1<sup>a</sup> -113: f.76.

<sup>306</sup> AGN Indios 11-223: f.183v.

committed against macehuales included no wages (although farmers had to pay them two and a half reales daily), working for extended periods of up to a month and a half with minimal rest, and neglect of religious instruction. An indigenous women ordered to help in the household and prepare meals was paid nothing in return, "not even a *real*."<sup>307</sup> Morales had no time to solve the problem because the *teniente* jailed him and an *alguacil* who was helping. He beat both men, kept them in the stocks for two days and two nights, and then transferred them to the public jail where they spent five days until a priest freed them. Despite the animosity and danger, the *cabildo* actively challenged repeated abuses by the Spanish because these incidents had far reaching effects.

Oppressed macehuales on farms had a direct effect on *repartimiento*. The burden of accountability fell on natives, whether it was the *cabildo* or individual macehuales, and the way to avoid punishment was to call attention to the cause of delays or incomplete quotas. The town governments of Tlaxcala and Puebla (also predominantly Spanish like Huamantla) had an agreement to share labor. The *obrero mayor*, or supervisor, of the construction of the cathedral of Los Ángeles received fifty workers weekly from Tlaxcala. The *principales* sued in April 1617 because the labor designated for the church was taken to farms, sugar mills, and other haciendas within and outside of the city. Instead of a week of service they work "like slaves" for fifteen to twenty days, day and night, for a few *tomines* and are improperly fed thus leading to illness and death.<sup>308</sup> The viceroy ordered this to stop but does not name a culprit. The supervisor had to see that natives went only to the construction site and mistreatment had to cease. Delayed completion of projects and extended periods of *repartimiento* put more pressure on labor.

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<sup>307</sup> Ibid.

<sup>308</sup> AGN Indios 7- 163: f.: 81.

Three years later the gobernador, alcaldes, and regidores filed a lawsuit against supervisors who still distributed the fifty natives for the cathedral to Spanish farmers and "friends." They kept track carefully of who was sent and figured out that six macehuales were missing. Further investigation revealed that an obraje owner had them against their will in a sweatshop.<sup>309</sup> Spaniards exploited a window of opportunity through bribery of supervisors who had access to a steady flow of repartimiento labor at project sites.

The greed of the people directly overseeing a large construction was apparent in the gross misappropriation of funds, money originally intended to pay the salaries of macehuales. The construction of the Tlaxcalan cathedral stalled for years while the obrero mayor, the accountant, and foreman pocketed salaries intended for natives. The construction had gotten underway but by the time the king addressed the problem in 1629, what was standing had begun to fall apart. According to him it was plausible to abandon the project, but he gave the viceroy the discretion to decide.<sup>310</sup> The king demanded that the usurped salaries be returned but in later correspondence it is apparent that such a collection never took place nor had his order to replace the individuals overseeing the project.<sup>311</sup> The viceroy chose to cut expenses by 50,000 pesos in order to continue with the construction. Costs rose anyway; therefore, the obrero mayor and the others received no salary or a very low one.<sup>312</sup> Unfortunately, greed and temptation caused supervisors to exploit available funds or they cashed in on conveniently delivered labor.

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<sup>309</sup> AHET 16-5: f.1.

<sup>310</sup> AGN Reales Cédulas (Originales) I, 84 in Silvio Zavala and María Costelo, *Fuentes para la historia del trabajo en Nueva España* (México: Fondo de Cultura Económica, 1939-46), 6: 533.

<sup>311</sup> AGN Reales Cédulas (Originales) I, 86 in Zavala and Costelo, *Fuentes para la historia del trabajo en Nueva España*, 6: 535.

<sup>312</sup> AGN Reales Cédulas (Originales) I, 84 in Zavala and Costelo, *Fuentes para la historia del trabajo en Nueva España*, 6: 534.

Setbacks characterized ecclesiastical construction sites as well as the *desagüe* when Spaniards removed natives from their pueblos. By the time officials showed up with rosters ready to pick up labor, those *macehuales* were no longer there. The *gobernador*, *alcaldes*, and *regidores* went to Mexico City in June 1632 to file a complaint against the *teniente* of Huamantla who took many natives to farms thus depleting the supply of labor for the *desagüe*. The *cabildo* solicited the court for help; they wanted assistance from an official appointed by the court in order to take back the natives from the farms.<sup>313</sup> Projects without the required *repartimiento* labor languished in incomplete stages for years.

Tribute collection was also at stake when Spaniards took natives forcibly to farms. The *prinipales*, *mandones*, and natives of Huamantla accused Diego de la Rosa, the Spanish *alguacil*, of coercing *macehuales* to go work on farms for a month or two as if they were slaves. Haciendas received new supplies of labor every ten to fifteen days according to the plaintiffs. Work began before dawn and were locked up when they rested at night. This case sheds light on the disruptions that also strained colonial efforts to collect tribute. De la Rosa intimidated the natives he took by destroying their property. He stripped them of earnings and took them to farms with little to recourse. Francisco Quezali, thirty years old, Juan Bautista, thirty-five, and Melchor Sole, forty, testified that on the orders of Don Miguel Isava, *teniente*, de la Rosa stormed into the houses of natives every Sunday to spill the *pulque* and break the pots where it was stored for selling in the marketplace.<sup>314</sup> Those destructive actions deprived natives of money used to pay royal tribute. The viceroy ruled in favor of the plaintiffs because according to the law they

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<sup>313</sup> AHET 40-28: f.1.

<sup>314</sup> AHET 54-15: f.5.

were free subjects, unlike slaves, and Diego de la Rosa would be banned from the office of alguacil if he committed the same offenses. Spaniards used outright violence as a means to exert control. They also had tactics to force debts on natives thus fabricating a "legitimate" claim on labor.

Debt was the shackle of the colonial period whose use intensified towards the independence period. The poverty of macehuals favored the Spaniards who tied labor to their farms for indefinite spans of time with this pretext. Indebtedness was a reality, but allegations against natives were questionable and sometimes they had to defend themselves in court. In July 1641 Ambrosio Franqui cost Gaspar Díaz Escudero money because of an accusation against Felipe Rodríguez and Gerónima Hernández, husband and wife. Escudero was the owner of a group of carts pulled by animals traveling from Veracruz to Mexico City. The executor Fernando de León intercepted Escudero near the town of Atlangatepeque in order to settle the matter between the married couple, who had their child, Bernabé, with them and Franqui who had obtained a mandamiento to get them back because they allegedly owed him "cantidad de pesos," a lot of money.<sup>315</sup> A day had gone by and Franqui had not shown up in court to settle the supposed debt with Felipe and Gerónima. Escudero complained to the court that his loaded carts incurred losses because of the delay caused by Franqui. In the end, Francisco de Santiago, the scribe, informed Escudero of his duty to appear in court two months later with the couple thus giving Franqui another opportunity to show. The veracity of his claims are questionable since the court normally required proof in the form of an account book demonstrating an outstanding debt.

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<sup>315</sup> AHET 56-8: f.4.

Forced debt was a tactic used in order to have legal grounds to sue natives. Juan Bautista escaped from Pedro Palomino's estate in October 1642 to present his case before the viceroy. Juan and his wife, María Catalina, unknowingly put themselves in danger when they decided to visit Sebastian, Juan's brother in law, who served Palomino. This landowner offered Juan four pesos which he refused. However, Palomino insisted Juan take it. When Juan and Sebastian were left alone, Juan gave the money to his brother in law so he could return it.<sup>316</sup> It is not clear if Palomino received his money back from Sebastian, but Juan stated that in the event he had not, Sebastian would work off the four pesos. A month later Alonso de Herrera, an interpreter, showed up at Juan's home, told him he owed Palomino, and took him to the farm by force. Herrera later went back to abduct María Catalina, but she was not home because she accurately feared his return. The couple's son, Pascual, was home and Herrera took him instead. Therefore, Juan asked the court for his liberty and that of his son and punishment for Herrera who already had a history of similar offenses.<sup>317</sup> The court honored his pleas; a justice from Tlaxcala would help free Pascual.

Diego Sánchez from San Felipe Iztaccuixtlan served on the farm belonging to Bartolomé Barbosa. Sánchez allegedly became indebted to Barbosa when the latter charged fifty-five pesos to his account in the ledger for oxen that were dying because they were old. Sánchez left to work under Pedro de Medina whom he did owe money. In revenge, Barbosa kidnapped Pascuala, his six year old daughter. Sánchez sued in order to rescue his daughter since he had repeatedly asked for her release. He was desperate to save Pascuala from Barbosa's wife who mistreated and physically abused her. Barbosa

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<sup>316</sup> AHET 59-1: f.1.

<sup>317</sup> Ibid.

searched for Sánchez at de Medina's farm, took him to a ravine in the woods where he lashed his naked body with a leather rein leaving him for dead.<sup>318</sup> On January 16, 1643 the lieutenant of the gobernador reunited father and daughter in the presence of Cristóbal de Urdanivia, escribano real.<sup>319</sup>

Cabildo officials were privy to the corruption of lower level Spanish officials and sometimes participated in it. While most cases demonstrate allegiance to the cause of macehuales, the indigenous leadership was not without its faults. At times they turned a blind eye in order to capitalize on the surreptitious arrangements they discovered. The natives from San Felipe and San Hermitas collectively sued the teniente who oversaw their towns in April 1639. The grounds for their case was a cédula that forbade such treatment. They asked for his punishment in addition to that of the cabildo officials and mandones, his accomplices. All of the defendants schemed to deliver native women who worked in their households as *molenderas*, or millers, most likely for corn. Others, probably the men, gathered firewood, hay, and "other things" for Spaniards.<sup>320</sup> The viceroy ruled in favor of the plaintiffs. He demanded testimony after an undetermined grace period to ensure that his decision was honored by the accused.

Natives from Tlaxcala solicited the help of Joseph de Celi in February 1640 to make allegations against specific officials. Whereas the case above was more vague about who committed the offenses, these records taken to the Juzgado named the gobernador and alcaldes as the parties colluding with Spaniards. The officials tricked macehuales into believing that officers of justice and the clergy sanctioned the rounding

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<sup>318</sup> AHET 59-9: f.:2.

<sup>319</sup> Ibid. Interestingly, the interpreter, Alonso de Herrera, who was a defendant in the 1642 case of Juan Bautista and María Catalina was still in office. He served as the interpreter for this case.

<sup>320</sup> AGN Indios 11-151: f.124.

up of natives for labor on farms. The plaintiffs described the conditions of natives held against their will in haciendas. They received no wages for labor and suffered mistreatment from landowners and their employees.<sup>321</sup> As they argued their case, they pointed out the ripple effect of these actions. Their observations provide insight into the disadvantages of an alliance between the cabildo and Spaniards. According to them, natives fled to other towns "desamparando sus casas y tierras causando irreparable daño en los tributos y servicio real," abandoning their houses and land causing irreparable damage to tribute and royal service (labor).<sup>322</sup> The cabildo was held liable for any deficits in tribute amounts and found themselves in legal entanglements for failing to meet repartimiento quotas.

As if forced labor on farms was not threatening enough, obrajes continued to be a threat to the freedom of macehuales too. The cabildo led cases against obraje owners, or obrajeros, but their role was less prominent than in those against Spanish landowners. However, macehuales still found ways to evade and escape these sweatshops. In the face of so many abuses, the viceroy stipulated how owners had to treat labor. There was money to be made from a combination of a demand for cloth and cheap labor; the semantics of obrajeros implied waged labor when their actions fully supported unrestricted servitude. Besides profit motives, the interplay of power between the cabildo and a noblewoman showed some of the power of laborers to contest the important role of labor as seen below. And finally, whereas greed caused officials to sneak labor to Spaniards, a different reason for duplicity emerges in the case of obrajes. An ordenanza from 1633 dealt with labor issues raised by obrajes.

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<sup>321</sup> AGN Indios 11-473: f.375v.

<sup>322</sup> Ibid.



The order had three objectives: it clarified how obrajeros should conduct business, how they should treat natives, and it encouraged officials to report anyone who disobeyed these rules. But like with *cédulas*, it took legal action from indigenous plaintiffs in order to enjoy the rights or privileges stated. These decrees fueled the fire in the sense that it gave natives, and the *procuradores* representing them, evidence with which to fight for their freedom. For example, natives could work in *obrajes* but had to do so "voluntariamente," or voluntarily, out of their own free will. Otherwise, it would be more offensive than helpful.<sup>323</sup>

The good faith of owners had to manifest itself by following procedures that promoted a free environment. Practices such as apprehending natives for *obrajes* and forcing them to sleep in the owners' houses or in other accommodations on the premises was illegal. Pedro de Pereda, the town crier, announced the *ordenanza* in Mexico City on September 5, 1634 at eleven o'clock in the morning in the presence of witnesses. A year later the *gobernador*, *alcaldes*, and *regidores* of Tlaxcala filed a lawsuit that pointed out natives were still apprehended and locked away in *obrajes*. They asked that a town crier also announce the *ordenanza* in Tlaxcala and the viceroy approved their request.<sup>324</sup> The *ordenanza* read like a handbook for the operation of *obrajes*. In some ways the "solution" came too late and or it fell on deaf ears.

The people who were in danger of mistreatment in *obrajes* were natives as the *ordenanza* demonstrated. That is because the majority of owners were Spaniards, with few exceptions. They dominated the cloth market and became upset when they had competition, especially from the population that normally slaved away in them. Plaintiffs

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<sup>323</sup> AGN Indios 12-1<sup>a</sup>-246: f.153.

<sup>324</sup> Ibid.

from the four altepetl of Tlaxcala traveled to Mexico City July 1616 to seek protection from Spanish obrajeros who harassed them. The defendants were angry because the natives possessed spinning wheels and looms to produce thread, dyed wool, and products such as blankets and sackcloth. In their defense, natives stressed that they only produced enough to sell at the marketplace to raise money for tribute.<sup>325</sup> The viceroy conceded that there was no wrongdoing on the part of the plaintiffs. He ordered the juez de obras to oversee this case to ensure that the natives could continue the production of thread and cloth without impediments. The thinking among obrajeros was not of natives occupying a role like theirs. Obrajeros tried at all costs to have a legal right to the labor of natives.

Saturday October 15, 1616 was not a regular day at the market in Tlaxcala. On the viceroy's orders, the sound of trumpets preceded an urgent message on his behalf. The town crier, a black man named Juan, made an announcement to the crowd that included both Spaniards and natives. Natives who had left obras were not to be mistreated and their liberty was to be respected. Neither force nor a writ was to compel them to return to an obraje.<sup>326</sup> This outcome demonstrated the success of the cabildo's complaint to protest the cycle of releasing natives only to compel them to serve again with coercion. Obrajeros had a way around court rulings in favor of their labor, *asientos*.

The word "asiento" means contract. A contract is a binding *agreement* between two parties. Owners drew up these supposed contracts with natives in order to create a legal obligation of service in obras. But there was a catch; they were ineffective. The ordenanza of 1633 forbade "contracts" and the cabildo vehemently protested them. And then there was the matter of how natives reacted to confinement in sweatshops.

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<sup>325</sup> AGN Indios 7-81: f.39.

<sup>326</sup> AHET 11-20: f.:1.

The name of Francisco López Arronez appears over and over again in the state archive of Tlaxcala. He was a prominent Spaniard in the business of obrajes in Apizaco, northeast of the city of Tlaxcala. Upon his death, doña María de Ávila, his widow, took charge of his enterprise. In March 1616 she appeared in court represented by Alonso de Narvaez, beleaguered by the loss of labor. Although the court failed to explain why she owed "much cantidad de pesos," a high amount of pesos, she was there to complain about natives who left her obraje despite their outstanding debts. Ávila believed she had a legal claim to that labor because asientos drawn up in the presence of a juez de obraje existed for many of the laborers. She knew the whereabouts of part of her labor force; they were on ranches, farms, and in Spaniards' homes.<sup>327</sup> But having asientos made no difference in the case. Instead, the Juzgado's decision contained a disclaimer that favored natives, not the obrajera. The court offered help from the jueces and justices to free the labor from the places she mentioned. They did have to serve if they owed a debt, however, there was a prerequisite. Whether natives chose to serve the first person they owed money had to be "de su libre voluntad y no de otra manera," of their own free will and no other way.<sup>328</sup> The viceroy ruled in accordance with the legal rhetoric that declared the indigenous population free. Undoubtedly, this upset Spanish plaintiffs as it gave natives a loophole to exploit.

A court mandated search for natives cost the plaintiff money. For instance, Ávila incurred fines for every person that the justices fetched. But the owners avoided taking on losses. The cabildo initiated litigation that revealed how the fees became a nonissue. The officials denounced two actions committed to the detriment of natives. First, at the

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<sup>327</sup> AGN Indios 7-33: f.15v.

<sup>328</sup> Ibid.

behest of obrajeros, labor recently freed from servitude was recaptured and faced pressure to accept asientos.<sup>329</sup> Natives rejected the terms of the dubious contracts and fled obrajes thus resulting in the second offense against them. Doña María de Ávila also faced this trend of labor fleeing in protest. When a court dispatched a "carta de justicia," or letter of justice, to pursue a runaway, the party soliciting the action paid a fee. The cabildo discovered that obrajeros charged those fees to the accounts of natives on the ledger. Consequently, labor became indebted, winding up in "mayor esclavitud," greater enslavement.<sup>330</sup> The cabildo acted as whistleblowers when obrajeros preyed on natives who had lost their freedom in other ways.

Natives who sat in Tlaxcala's public jail faced a fine for some offense or a sentence. They probably sat in the cells feeling unfortunate, dreading the outcome. But Spaniards such as Bernardino de Ávila felt the opposite; the odds could be in his favor. The lawsuit in which he was the defendant and the plaintiffs were cabildo officials, shed light on his unorthodox methods of both founding an obraje and gathering manpower for it.

Ávila exploited the position of his brother, Gaspar Rodríguez de Villanueva, who was an escribano público. When the plaintiffs stated, "y con la mano que tiene tal como su hermano," and with the handwriting that he has like his brother, they accused him of forgery. He founded an obraje illegally with a fraudulent signature resembling his brother's.<sup>331</sup> Since he succeeded, he then looked for a viable pool of labor. The public jail was the perfect solution, it contained a group of natives conveniently gathered in one

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<sup>329</sup> AHET 35-6: f.1.

<sup>330</sup> Ibid.

<sup>331</sup> AGN Indios 7-177: f.87.

place. The cabildo exposed the Spaniard's legal maneuver. A court issued document, *título de depósito*, allowed him to temporarily gain custody of someone. He obtained labor for his home with these documents and set his sights on the prisoners in the jail for his obraje. The títulos enabled him to bail out the natives. The cabildo made a case for the release of natives and sought punishment for Ávila.

As with other forms of labor, sometimes officials acted against the interests of natives. Money was not the only motivation for straying from what seemed to be the norm, officials helping macehuales. Clergymen had tremendous clout in colonial society as they imparted the Catholic religion on the crown's subjects, but this role did not silence complaints. The natives of San Bernardino Contlán and San Pablo Apetatitlán accused Padre Fray Pedro de Angulo of forcing them to spin wool. The priest had received a warning prior, but his activities had not ceased. According to the natives, the prosecutor of the church helped him gather natives for spinning in the convent of Santa Ana Chiautempan as well as the principales. Why did the nobles give aid? The plaintiffs stated that it was to give satisfaction, "dar gusto," to Padre Fray de Angulo.<sup>332</sup> Regardless of social hierarchy, natives had to live up to the standards of Christian piety inherent to the Iberian empire. Therefore, the authority of the priest allowed him to utilize the principales for forced labor. Since clergymen were superiors, it is doubtful that any kind of recompense was provided, none was mentioned. In fact, the court threatened to persecute and fine the prosecutor of the church and the principales with "grave penalties." Padre Fray de Angulo received a warning, but would not be held liable like the other defendants would have been.

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<sup>332</sup> AGN Indios 12- 1<sup>a</sup>-19: f.173.

Cabildo officials spent valuable time and money litigating against forced labor in obrajes because of the brutal conditions found in these. And this fact played an important role in the strife that characterized the different personalities within the town government. In the summer of 1637 "some principales" from the city of Tlaxcala complained about the gobernador, don Diego Jacinto, handing over women to Doña María Niño, owner of a trapiche, for the purpose of spinning wool under lock and key. The viceroy ruled against Jacinto. Two years later, don Lucas Cortés, don Juan de Paredes, and don Juan Martínez, all principales, accused him of doing the same thing. Except that the situation had become much more personal. The wives of the plaintiffs became collateral damage when Jacinto threw the women in obrajes to vex the men. The court ruled against him again and awarded the women their freedom.<sup>333</sup> Far from the notion of obrajes as waged labor with "contracts," Jacinto's actions demonstrate what they were more like, prisons. All across Tlaxcala natives learned to seek justice in their own right during the seventeenth century. Their incentive was the guarantee of freedom under Spanish law.

Indigenous plaintiffs sued their aggressors in a legal environment when the cabildo still exercised a central role in the altepetl. In other words, individual natives began a more marked participation initiating suits parallel to the protective efforts rendered by their leadership. Their testimony sheds light on the social changes caused by forced labor. Spaniards deprived them of their freedom and forced them to serve for many years without pay. They risked setting off the wrath of employers because not doing so meant losing their children.

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<sup>333</sup> AGN Indios 11-95: f.77.

To be a macehual in seventeenth century Tlaxcala meant that one lived with a certain level of anxiety because "freedom" could be transient. Spaniards entered their towns without warning to take those they needed to haciendas. Most plaintiffs escaped in order to create an opportunity for justice. Juan de la Torre needed labor so he targeted the town of San Mateo Ayacac in March 1635. Accompanied by his entourage, he forced four men to work on his hacienda, Mateo Juárez, Tomás de San Pedro, Juan Luis, and Marcos Juárez. Mateo filed the suit in Mexico City in his name and in the other men's because de la Torre still had them bound to his land. According to Mateo, the men worked under the close supervision of guards during the day and slept locked up at night.<sup>334</sup> He was successful; the court issued an amparo for the freedom of the others and punishment for de la Torre. But some natives were not as fortunate as Mateo; they would wait a long time before appearing in a tribunal.

Spaniards insisted on having servants rather than paid employees, but the response of natives was to resist that practice to prevent its normalization. The length of time that macehuales endured working in exchange for no pay varied from two to twenty years. In 1636 Juan Lucas from the town of San Antonio Quautla filed a lawsuit against the labrador Juan de Lima because the latter forced him to work for an unspecified time period when the daily salary should have been two reales. Lima refused to calculate the amount he owed Juan. The court issued an amparo that protected Juan from the landowner and in twenty days from the date, the salary that was in arrears had to be paid.<sup>335</sup> Other Spaniards created an even larger debt in salaries for themselves when natives made the trip to Mexico City after many years of duress.

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<sup>334</sup> AHET 45-12: f.1.

<sup>335</sup> AHET 47-13: f.1.

Two years later, Joseph de Celi, the procurador who appeared many times in the Juzgado, represented Juan Flores from Santiago Tecomalocan against Cristóbal Osorio, a landowner and obrajero. He had been treated "peor que si fuera su esclavo," worse than if he had been his slave.<sup>336</sup> For twenty years Flores served against his will, under oppression; he wanted to go home with his wages. The amount he sought was six pesos per month, nearly two reales a day.<sup>337</sup> That amount was the average daily wage expected by macehuales. The circumstances under which Flores was first acquainted with Osorio are missing from the case, but others demonstrate how someone would end up serving against their will for years on haciendas.

Land transactions between two parties treated labor as an acquisition that was part of a package. However, the new owners hardly bothered to inform natives about this detail. When Juan Díaz Pillalonga died, Simón González, Bonifacio Paez, and the men's wives, Paula and Francisca respectively, believed that event to signal the end of their service. The new owner, Juan Gómez, intended to keep all of the *gañanes* listed in the account book, including the plaintiffs. He accused them of having an outstanding debt that they needed to pay off with labor. For over two years he periodically refused to examine the book in their presence to prove the existence of the debt because they toiled away day and night, even on festival days.<sup>338</sup> They sued for both freedom and wages. Spaniards tried to avoid the forfeiture of labor viewed as available and secure. But they were unsuccessful even in cases when natives spent their childhood working on an hacienda.

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<sup>336</sup> AGN Indios 11-88: f.71.

<sup>337</sup> The daily rate was about 1.6 reales.

<sup>338</sup> AGN Indios 11-249: f.204.



Miguel Sánchez was just ten years old when he began serving Alonso de Herrera. By the time he sued in May 1640, he did so in the company of his wife of eight years, María. The Spaniard had given them the clothing that the bride wore on their wedding day as well as nine pesos for the occasion, and a set of clothing for each on a yearly basis. Miguel sold hay every day which earned de Herrera three pesos weekly while María sold tamales and chocolate daily, not even resting religious holidays.<sup>339</sup> The couple wanted the wages denied by de Herrera for all of their labor and asked for protection in case the defendant decided to go to San Gabriel Quautlan, their home town, with the purpose of harassing them. Spaniards deliberately ignored their end of the bargain. Based on the cases, living quarters and food did not abrogate the understanding that labor took place in exchange for wages; macehuales were unconvinced a place to stay and meals somehow replaced wages.

Landowners honored the contractual terms as a means to an end. Sancho Mantilla paid for the labor of Baltazar Hernández who served on his hacienda for a few days at a time. After gaining trust, Mantilla gave him a money advance against the plaintiff's will with the purpose of creating a "legitimate" reason to keep him. By the time Hernández requested a second amparo from the Juzgado, he had served a total of four years. The mayordomos and servants inflicted most of the abuse on behalf of Mantilla.<sup>340</sup> Undeterred by the ineffectiveness of the first amparo, Hernández was determined to get justice. The actions of natives demonstrate the faith they had in the legal system. Otherwise, they would not have boldly escaped from the haciendas where Spaniards held

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<sup>339</sup> AGN Indios 12- 2<sup>a</sup> -114f.232.

<sup>340</sup> AGN Indios 13- 276: f.236.

them captive. Sometimes acting on the legal right to set foot in a court was the only chance they had to protect their family unit.

Juan Mateo filed a second lawsuit against Pedro de León, an *arriero*, or muleteer, in May 1633 approximately five months after the initial one. The future of his son was at stake. He accused de León of doctoring the account books by adding false debts for him and his son, Diego Juan. Mateo was a widower. Also, he demanded the wages that his deceased wife, María Úrsula, never received for twelve years of service. In order to appear in the Juzgado, Mateo ran away when de León left with his drove of mules, but he fled without his son. His daughter-in-law and grandchildren suffered hunger and lacked necessities because Diego Juan was locked up on the hacienda.<sup>341</sup> Although the *arriero* was deprived of Mateo's labor, Diego Juan was an asset because he was an able bodied man that he could exploit. However, young children were not exempt from losing their freedom.

The case of Juan Flores against Cristóbal Osorio discussed above took a turn for the worse for the plaintiff because the latter took his son Joseph, who was eight years of age, away from Flores in retaliation for terminating his service. Osorio also took away material things from Flores such as a cloak and a horse.<sup>342</sup> The age of the child indicates that the underlying reason why the child was taken was to incite fear. Arguably, Joseph could perform labor on a farm, but his physical capabilities were limited compared to an older child or a young man. Natives rejected the manipulation with legal action thus opting to fight for freedom. Perhaps they wanted no part in the inception of a vicious cycle of servitude.

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<sup>341</sup> AGN Indios 12- 1<sup>a</sup>-22: f.11.

<sup>342</sup> AGN Indios 11-88: f.71.

Macehuales risked physical harm and even their lives when they litigated for the restoration of their personal freedom, or that of their families, wages, and other abuses. Natives put so much at stake to obtain amparos, thus one can see that they were not a gamble. They were indeed a solution for them. And when the defendants in the case refused to obey the court's orders, the accusers sued again. The first time that Juan Mateo filed a lawsuit against Pedro de León, the gobernador freed Mateo but a few days later León apprehended him and his son again. As he hit and mistreated them, he told them that he should kill them for seeking a court action against him.<sup>343</sup> Natives had to run away from landowners during an opportune moment in order to visit a tribunal in the first place. They put themselves in more danger with the next step they took. Their actions attest to the fact seeking a remedy outweighed the perils of doing so.

Don Melchor de Mendoza and his wife, Angelina, sued Juan de Lima six months following their escape from his hacienda. A family from a nearby town offered the couple refuge, but de Lima found them anyway. Mandones and principales intervened on behalf of the couple since the landowner intended to take them. He met with resistance and proceeded to beat them. As a result Lima was arrested but negotiated his way out of jail. The situation escalated upon his release. He accused them of owing him money and obtained a court order stating that the couple needed to return to work off the phony debt. Still angry about his arrest, Lima took his frustration out on de Mendoza. The Spaniard tied him to a tree as punishment and left him there. Mendoza did not wait to see how else he might be tortured. He freed himself and ran into the forest leaving his wife and children behind.<sup>344</sup> The trend of macehuales who went to court increased significantly

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<sup>343</sup> AGN Indios 12- 1<sup>a</sup>-22: f.11.

<sup>344</sup> AGN Indios 11-457: f.360v.

towards the end of the seventeenth century. What began in the early part of the century reached a watershed moment at the twilight of the eighteenth century when political, social, and economic factors loosened Spain's grip on its empire. The immense pressure of paying tribute further magnified the problems of the cabildo.

The collection of tribute was an area of colonial life where the crown put immense pressure on the cabildo during the seventeenth century. It placed accountability on indigenous officials without exception. However, through 1650 tribute collection was a problem for both the Spanish and indigenous authorities. First, there were the difficulties in its annual collection. The consequence was a temporary loss of power over tribute for the cabildo. A decline in population, and mounting expenses for the government also presented challenges for tribute collection.

In theory, the crown was to receive an amount of money equivalent to the value of 8,000 fanegas of maíz. Additional tribute was due for labor constructions in the region. How events transpired was quite different. Arrears characterized the first half of the seventeenth century to an alarming degree that the bureaucracy interfered. The cabildo deflected the expectations according to what they felt was fair. Authorities wanted to hold Diego Muñoz Camargo, the gobernador in 1613, responsible for a total of 499 fanegas of maíz, 125 pesos and 1 tomín, a delinquent amount due five years prior. According to Muñoz Camargo, the current officials were not in charge of the past due tribute. They neglected to name under whose term the arrears originated, but were confident that those officials had either died already or had gone elsewhere.<sup>345</sup> In their opinion it was probably not worth it for Spanish officials to pursue the case because

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<sup>345</sup> AHET 8-8: f.1.

nobody was responsible for it anymore. Or they were in fact responsible for that tribute and denied it. Five years prior to 1613 would have been 1608, the year that Muñoz Camargo took office. He did not openly blame his predecessors, neither Joachin de Ribas nor Juan de Vargas, but implicated them with his claims.

Arrears were not a lost cause all the time. The same year that Muñoz Camargo deflected culpability for 499 fanegas, his government paid 7,200 fanegas that had been due three years prior in 1610.<sup>346</sup> It took them three additional years to collect the amount. Regardless of what caused delays in collection, corruption or the poverty of the macehual population, or both, the consequences for the cabildo were disastrous when it failed to meet deadlines. February 21, 1630 was the day on which the fate of don Gregorio Nacianceno and his fellow officials was decided. Eight days prior the court had given the gobernador a deadline to turn in the tribute due for 1629. They failed despite "moderations" that the viceroy made, presumably to ensure payment. Two months after their warning to pay the tribute, the cabildo was incarcerated for lack of compliance.<sup>347</sup> The cabildo typically sold assets belonging to the Tlaxcalan community in order to get out of prison. However, colonial authorities decided to intervene in order to collect tribute in a timely manner under adequate supervision.

In 1639 the Spanish gobernador received orders to help don Gregorio Nacianceno with tribute collection.<sup>348</sup> The viceroy protected the interests of the crown with the decision to appoint the Spanish official as the person directly in charge of tribute in Tlaxcala in 1641. According to Martínez Baracs, arrears and accusations against the

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<sup>346</sup> AHET 7-20: f.1.

<sup>347</sup> AHET 34-11: f.7.

<sup>348</sup> AHET 54- 9: f.1.

cabildo of charging extra tribute caused the political move that lasted until 1650.<sup>349</sup> Such was the case in 1641 when the natives of the four altepetl complained that the cabildo intended to charge the tribute for 1640 again. They urged the court to force the cabildo to show the receipts proving the collection.<sup>350</sup> Prior to this change, there was considerable complicity between both gobernadores, Spanish and indigenous. Their negotiation was as follows: the Spanish gobernador vouched for the amount of tribute, but the cabildo had to collect the amount from tributaries.<sup>351</sup> Another way in which both parties were connected was through the influence that the Spanish gobernador had with the viceroy. Altepetl rotations based on pre-Hispanic custom had ceased. Cabildo officials aspiring to the office of gobernador tried to stay in good favor with the Spaniard so that their name would be "promoted" in conversations with the viceroy.<sup>352</sup> However, the role of cabildo officials, especially that of the gobernador, had not been marginalized purposely. Under the supervision of the Spanish gobernador, the few major changes occurred in reducing expenses for events such as welcoming the viceroy, but his oversight failed to prevent significant losses such as that of 8,000 pesos of Tlaxcala's tribute in 1642.<sup>353</sup> Colonial authorities had little reason to believe that either government, Spanish or native, had their interests at heart.

The cabildo emerged plagued by demands but with its leadership still focused on defending their community. It had authority over allocation of labor which the colonial bureaucracy needed. Native officials used that necessity both to gain leverage and speak

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<sup>349</sup> Andrea Martínez Baracs, *Un gobierno de indios*, 345.

<sup>350</sup> AGN Indios 13-137: f.119.

<sup>351</sup> Ibid, 344.

<sup>352</sup> Ibid.

<sup>353</sup> Ibid, 346.

out against abuses such as coercive labor. Macehuales, in turn, exploited the right to report their grievances in court thus forcing, or at least trying to force, the crown to support legal rhetoric. The cohesiveness of the cabildo would undergo significant changes in the second half of the seventeenth century, but the actions of macehuales and officials would be the same, ameliorating as best they could the treatment that a colonial system deemed necessary.

## Chapter Five

### Cracks in the Mold 1650-1700

In June 1670 Tlaxcala's cabildo formulated an impassioned case that voiced their frustrations with recurring abuses committed by priests, corregidores, and tenientes. The failed remedies stood in stark contrast to what natives endured and fought back against. The crown had offered many cédulas and other orders and founded many tribunals to execute those orders and to fulfill these decisions. However, this was "still not sufficient remedy for the maliciousness of the delinquents."<sup>354</sup> The latter half of the seventeenth century was a time of noticeable decline in the power of the cabildo but as individuals, natives, particularly macehuales, pursued legal action without the help of officials. The weakness of the cabildo coincided with a rise in aggression against the familial units of natives. Political factions within the town government undermined its cohesiveness as did the nobility's alliances with officials of the Spanish cabildo. Also, labor arrangements shifted as hacendados began to see natives as part of the land, a view more in tune with debt peonage. The overwhelming response, however, was legal action from the poorest sector of Tlaxcala's population. The cabildo faced internal divisions, but macehuales picked up the reins of their own defense in Spanish courts. By the second half of the seventeenth century commoners had enough experience with the legal system, and were well versed in its language, to use it to their advantage if necessary. Their own native officials had set the example for decades prior to the breakdown of authority.

Landowners tried to restrict the mobility of natives to which the latter responded with litigation. Natives had the custom of fleeing if they were not satisfied working for a

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<sup>354</sup> AHET 84-11: f.9.



landowner or if they suffered abuse. Macehuales watched as landowners took their family members hostage on haciendas and estancias. Their freedom could only be secured if natives returned to work against their will. The plaintiffs sued with the help of a procurador but with no representation from the cabildo. The most significant reasons why natives fled and Spaniards consequently took their family members were bad treatment and a personal choice to terminate their years of service with any given landowner.

Landowners intended for ill treatment to intimidate macehuales so badly that they would have no choice but to remain under their service. Unfettered by debt, natives abandoned labor arrangements where bad treatment and threats to their families were the norm. Diego Pérez grew tired of how Pedro Colón, a Spanish vecino, treated him. He no longer wanted to work for him because of this and decided to leave. The wife and children of Pérez became the targets for Colón's ire. The Spaniard threatened to apprehend them so that they would be forced to serve him again as in the past. The court order for June 1653 awarded Pérez the protection he sought against Colón.<sup>355</sup> Juan Matías was not as fortunate since the landowner Marcos de Verriél succeeded in holding his son, Thomas, captive. The mayordomo mistreated Matías "by word and deed" because he had managed to escape. In May 1660 he went to the Juzgado to ask for his son's freedom since he was working "as if he was his [de Verriél's] slave."<sup>356</sup> This mandamiento he acquired was ineffective because it was not obeyed; trickery prevented its fulfillment. The penalty it carried of 200 pesos for making Thomas serve against his will was ignored. Verriél took the extra precaution of hiding him. The new

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<sup>355</sup> AGN Indios 19-168: f.89-89v.

<sup>356</sup> AGN Indios 19-237: f.131.

mandamiento granted in February 1661 reinstated the 200 peso fine and stipulated that Verriel had to pay Thomas wages for his labor. The court also ordered an investigation as to whether or not the native instructed to deliver the first mandamiento to the teniente in charge of its execution had done so at all.<sup>357</sup> The decision to run away from abuse angered landowners because they felt a sense of entitlement over the lives of natives.

A Spaniard named Andrés de Guerra from Huamantla was infuriated when Diego Sánchez and Magdalena Xuchil, his wife, left his farm to reside in Los Ángeles in nearby Puebla. They served Guerra for twenty years before the bad treatment they received from him drove them to leave. In retaliation, the Spaniard went to their home in Puebla and kidnapped Magdalena and their two children. When Sánchez appeared in court in June 1662 he testified that Guerra had his wife and children locked up somewhere on his hacienda. With all of the rigor of the cédulas which prohibited servicio personal of any kind, he pleaded for their freedom. The court included a cautionary order that if the mandamiento was not carried out, another person would redeliver the order.<sup>358</sup> The grievances of natives were not limited to bad treatment. Not only had they suffered by the hand of landowners, but they had been paid inadequate wages or none at all.

On August 13, 1654 a group of eight plaintiffs from San Miguel Tenancingo complained in the Juzgado about a Spanish farmer, Tomás García, from San Francisco Papalotla. The procurador Agustín Franco represented four couples of husband and wife and a widow and her teenage son. All had served García for approximately eight years. They suffered on two counts: physical abuse such as beatings and extremely low wages with no stipend for their sustenance. The plaintiffs complained that the monthly wage of

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<sup>357</sup> AGN Indios 19-344: f.193v-194.

<sup>358</sup> AGN Indios 19-517: f.292-293v.

3 pesos and 4 reales with no stipend was too meager. They likened García's demands and how he treated them to slavery. He forced them to work on holidays, presumably religious festivities, and all day from sunrise to sunset. For three years they asked to "ajustar cuentas," or adjust their accounts, but he refused.<sup>359</sup> It is unclear which of the plaintiffs still had freedom to complain in the Juzgado, but the mandamiento stipulated that the natives were to be freed from the farm where García had them under lock and key. A combination of both threats of kidnapping and a lack of pay motivated natives to sue.

Juan Miguel from Santa María Yanquisilalpa complained against Antonio Patiño for the second time in April 1663 because he "oppressed him as if he were a slave."<sup>360</sup> The *labrador*, or ranch owner, had held him and his son, Juan Domingo, in this manner. The court order issued the first time had been ineffective because Patiño was "sponsored by powerful people." Juan Miguel and his son received none of the wages they were owed and had the added pressure of living in fear of the *labrador*. Patiño tried to take them by force so they could serve him again. For these offenses, the court ordered testimony of the execution of this second mandamiento so that the men's freedom was assured and they received compensation for labor rendered.

Juan Miguel was able to escape the predicament that Juan Francisco and his family found themselves in. On March 29, 1672 Juan Francisco from the town of Santa María Nativitas sued María Anaya, a landowner who mistreated him. She mistreated him and denied him wages which caused him to leave her hacienda. In order to force his

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<sup>359</sup> AGN Indios 20-195: f.142-142v.

<sup>360</sup> AGN Indios 19-63: f.351-352.

return, she kidnapped his wife, María Magdalena, and his son, Juan Marcos.<sup>361</sup> Like many of the other natives suing the landowners they formally served, he wanted the right to live where he pleased and to do so *with freedom*. They asked for absolute freedom in their petitions to the court, but natives acted on the degree of freedom they believed they had.

The actions of Pedro de Armijo, a Spaniard who leased an hacienda, exemplified the actions that landowners took to control natives. Of the three plaintiffs with accusations against him in 1656, one filed the lawsuit because Armijo had kidnapped his daughter. All three men, Juan Miguel, Felipe Hernández, and Nicolás Salvador from San Felipe, had suffered mistreatment on the hacienda at the hands of Armijo. The fact that they had no debts pending also contributed to their decision to flee; it gave them more freedom to do it. Two of them had additional reasons to complain against the Spaniard. Juan Miguel testified that the kidnapping of his daughter, Ana María, was a ploy to force him to return. Salvador wanted protection against the accusation that he owed de Armijo an amount equivalent to the value of a horse. It was a "sinister" claim because he had not been given a horse.<sup>362</sup> Zero debt represented one hurdle less to obtain freedom, but the amparos demonstrate that macehuales wanted exoneration at all costs.

Natives wished to live in their towns of origin or simply wanted to exercise their free will to leave an hacienda or estancia. When they tried to put into practice the legal principle of freedom that the cédulas stated they possessed, landowners countered those efforts with kidnappings, and natives responded to that by suing. After eleven to fifteen years of service, Juan Zacarías had no desire to provide labor for Pedro de Portillo any

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<sup>361</sup> AHET 85-30: f.4.

<sup>362</sup> AGN Indios 20-195: f.142-142v.

longer. In July 1652 Zacarías found himself fighting for the freedom of his wife and children. Initially, Portillo kidnapped only one of his children, a daughter named Catalina. This action and the fact that Portillo was "poderoso," or powerful, caused Zacarías to lose his freedom.<sup>363</sup> He managed to escape and then obtained an amparo for his family.

On August 13, 1652 officials showed up at the estancia of Portillo as mandated by the court: a *teniente de alguacil mayor*, an *alguacil*, and an interpreter. The people removed from the property were the plaintiff's wife, Ana Lucia, their five children, and four other indigenous women as witnesses. The witnesses' testimony bolstered the case of Portillo, who denied the charges, because the women said that Ana Lucia had the freedom to leave whenever she wanted. They neglected to mention how the children were treated. At the conclusion of the case Zacarías and his family were reunited.<sup>364</sup>

Landowners solicited the help of their paid help to carry out the kidnappings so that natives would not abandon their land. Pedro Galán was a *mayordomo* on the hacienda of Antonio Hernández, a Spaniard. With the help of Galán, he forced Francisco Soli and María Salome, his wife, to work. They took the couple and their children from their home tied up and kept them locked away "as if they were slaves" mistreating them by "word and deed."<sup>365</sup> In 1661 an unnamed Spaniard was accused by Raphael de la Cruz of also getting help from his *mayordomo* to coerce his family. According to de la Cruz, he and his family served the defendant "a long time" in Los Ángeles. The Spaniard fabricated the excuse that the plaintiff owed him a debt. At the time of the lawsuit, his

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<sup>363</sup> AHET 71-11: f.19.

<sup>364</sup> Ibid.

<sup>365</sup> AGN Indios 17-135: f.144.

wife was locked away somewhere on the hacienda. The Juzgado granted de la Cruz an amparo to be reunited with his wife.<sup>366</sup> Landowners imposed their will by holding natives hostage, but rather than silencing them, they caused multiple lawsuits so that hostages could gain freedom.

The attempts to kidnap Diego Francisco, María Agustina, Juan Diego, his wife Cecilia, Juan Pascual and María Salome, Juan Diego and Isabel María occurred initially on August 7, 1654 by the hand of Juan Francisco de la Rosa. They turned to the legal system and successfully obtained a *decreto*, or order, granting them protection from the justice of Los Ángeles. However, days after obtaining it, de la Rosa went to the natives' town, La Resurrección, took them against their will from their homes and locked them up in jail where they found themselves at the time of the second lawsuit in November 1654. The second order validated the original decreto once again and ordered the natives to be freed.<sup>367</sup> A sizeable group of plaintiffs also sought protection against Pedro de Arria, another labrador. The procurador Juan Pérez de Salamanca represented seven men, their wives, and children because Arria wanted them to serve against their will. The court granted them a *despacho*, or dispatch, to protect their liberty and threatened Arria with a 200 peso fine. Nevertheless, the labrador harassed them again and succeeded. When the procurador filed the suit in their names, Arria had them on his land, coerced into staying there. The justice of Tlaxcala had to see that the natives obtained freedom and their aggressor punished.<sup>368</sup> The actions of landowners demonstrate how they perceived their

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<sup>366</sup> AGN Indios 19-359: f.200v.

<sup>367</sup> AGN Indios 17-279: f.271v-272.

<sup>368</sup> AGN Indios 20-217: f.171-171v.

power over the lives of natives, limitless. The social relationships of both natives and landowners were deeply intertwined.

Of the four indigenous women who served as witnesses for the case of Juan Zacarías against Pedro de Portillo for the freedom of his wife, one had been born and raised on the estancia. María Xochitl, who was twenty-two years old, had likely never known another home other than the one provided by Portillo. Her testimony favored him as did the other witnesses'. According to them, Zacarías' wife, Ana Lucia, had the freedom to come and go. In other words, the allegations that she was under lock and key were false.<sup>369</sup> The loyalty that the women had to Portillo was the result of the role of provider that he fulfilled. The power dynamic favored Spanish landowners, but they were also in a position where they could obtain help and support from natives allied with them.

The bond between both groups affected how they settled debts. In June 1691 Don Cristóbal Guerrero and Joseph García went to court over a debt. According to the account book where Guerrero recorded the debts of his *gañanes*, García had an outstanding debt of 199 pesos and 2 reales. For the time that he had served, Guerrero credited him the amount of three pesos and 2 reales a month thus lowering the debt to 170 pesos. Guerrero made a final motion at the conclusion of "adjusting the debt," he stated that "because he raised him [García] he "pardoned another twenty pesos" of the amount.<sup>370</sup> Natives fought for their freedom against people they served for years. But sometimes the significance of the years spent with the same landowners was more personal. Whether it was a touching gesture or a way to seem benevolent to colonial

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<sup>369</sup> AHET 71-11: f.19.

<sup>370</sup> AHET 96-16: f.3.

authorities, it was a telling action showing the social give and take between natives and landowners.

Matías de los Santos and Francisco de Fuentes, an obrajero from San Pablo, first became acquainted when the former was twelve years of age. His father, Diego Martín, worked in the obraje and took his son there. In March 1696 de los Santos accused Fuentes of not paying him a salary for his labor. He testified that he had been suffering bad treatment "by deed and by word." In addition, his wife, Juana Baptista whom he married three years ago, had received no wages either.<sup>371</sup> For a case that began with clear accusations and unambiguous allegations of abuse, its outcome was surprising because of the amount of time that the men know each other.

On March 21 the obrajero testified to the court about the nature of his relationship with the plaintiff. Ten years ago Diego Martín gave consent so that his son could learn to make spools. He made these and also became an apprentice to be a weaver under the direction of a native named Pascual Luis. For four years he received the salary of twenty-five pesos during his apprenticeship. The work relationship of de los Santos and Fuentes blurred into the personal when the plaintiff married Juana three years earlier. De los Santos gave him 40 pesos and provided housing for her without receiving labor in return.

De los Santos appeared in court to testify in response to his employer's version of the events. He did not go into detail but instead declared, "Francisco de Fuentes y yo estamos avenidos y concertados," Francisco de Fuentes and I are on good terms."<sup>372</sup> And on his part, he went on to say, he would "desist and remove himself from said lawsuit."

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<sup>371</sup> AHET 99-43: f.4.

<sup>372</sup> Ibid.



He retracted but he vowed never to ask Fuentes for anything with the condition that his former employer "allow him to live freely wherever he wanted and to not disturb his freedom nor anyone else in his name presently nor at any other time." That was his condition, he declared to say those words out of his own free will and not under duress. On March 22 his motion was communicated to the gobernador and the defendant was notified to allow de los Santos to live freely.<sup>373</sup> Above all else, the plaintiff valued his freedom. Neither financial ties nor the help that he received made him forfeit the right to exercise his free will.

Natives lived under constraints caused directly by the need for labor for which landowners depended on them. They were defined by these social norms. But these "duties" hardly kept them in the positions of servitude they were intended to stay occupy. The balance of power was not in the favor of natives, but they ran away, not caring that the odds were not in their favor. The alcalde of the public granary was unable to pay a group of gañanes in June 1667. Don Manuel Junquitu failed to provide him with the maize that would be the payment for their labor. Therefore, the men ran away in order to sue Junquitu, who had financial problems. If the gañanes could not prove their claims, they had to return to the hacienda with the possibility of receiving no wages because it was suffering losses.<sup>374</sup> It is unclear whether they returned.

Juan Bernal Bejarano was so frustrated with the actions of some natives who worked on his farm that he countersued them. He accused them of "disappearing maliciously." The despacho ordering Hernando Juan, his wife and children, Juan Martín, his son in law, and Nicolás Juan to appear in court to settle financial matters was never

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<sup>373</sup> Ibid.

<sup>374</sup> AHET 83-11: f.1.

delivered. On November 9, 1676 the decreto asking the natives to appear was presented to the gobernador of Tlaxcala. Nearly two months prior, a game of cat and mouse ensued between the natives and Bejarano. In early September the procurador Matías de Jiménez represented the case of Hernando Juan and the others. They alleged that Bejarano made them serve against their will without having any outstanding debts. The gobernador granted them protection on September 9 and ordered him to appear with his account book.

When the ministro de vara, Domingo Carrillo, showed up at Bejarano's doorstep, his son claimed that he was not in town. He finally responded to provide evidence for his claim that the natives were malicious. He claimed to have investigated the town of origin cited by his accusers. According to him there was no such town of Santa Clara Azempa. It was "the notion of a blind native woman named Juana, of Juan Ramírez, Juan Montales, and three other natives."<sup>375</sup> For Bejarano it was a crucial piece of information because the natives may not have been registered to pay tribute in any other town. As was the custom, landowners had rosters of natives for whom they paid tribute. They were probably on his. By March 1677 the conflict between both parties remained unresolved. It had taken an acrimonious turn because Bejarano kidnapped the wife of Nicolás Juan. An amparo issued by the Juzgado ordered him to free the woman. The case does not clarify if Bejarano told the truth about the so-called fake town, but it demonstrates how unapologetic natives were about their actions. They made the firm choice to leave one day, seemingly ready to defend their decisions in court.

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<sup>375</sup> AHET 88-21: f.14.

Benito García, a Spanish vecino and labrador in Huamantla, refused to listen to Juan Mateo, a native under his service who asked repeatedly to see how much he owed according to the account book. In his complaint, Mateo alleged that García also denied him wages for his labor. The latter did not budge; therefore, the plaintiff left to reside in his town of origin. The lawsuit he filed also had the purpose of preventing the Spaniard from interfering with his decision to live freely, in addition to receiving earned wages.<sup>376</sup> The outcome of the cases favored natives thus the violence directed against them for suing garnered further support from the court.

Juan López Maldonado did not acquiesce to requests for wages and verification of debts. In August 1678 Juan Diego, his son, and their wives and children fled the farm because Maldonado refused to pay them and clarify how much money they owed him, if any. They returned to their town where they had land to sow. Maldonado harassed Juan Diego and the others by sending his *criados*, or servants, and the mayordomo to bring them back to the farm. The plaintiffs filed the lawsuit so they could finally receive wages and so he could let them live peacefully. The Juzgado ruled in favor of the plaintiffs and appeared in court on September 15 to verify their identity. Maldonado appeared to have been excommunicated from and his mayordomo had orders to visit the court with the account book.<sup>377</sup> The custom of landowners exploiting their power to a breaking point caused natives to flee and sue them. But there was power in numbers. Natives frequently left haciendas to pursue their better interests which caused problems and financial stress for hacienda owners. However, a less peaceful approach besides fleeing worried landowners enough that they sought legal help.

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<sup>376</sup> AHET 89-19: f.2.

<sup>377</sup> AHET 89-20: f.1.

The actions of forty-six *gañanes* alarmed Nicolás de Huerta to such a degree that he carefully took note of all their names. He terminated them because they caused trouble on his hacienda. Consequently, they returned to San Pablo Siltlactepec, a town located close by. The actions Huerta denounced in court were the *gañanes*' alleged meddling and influence that they had on the *gañanes* and servants who stayed. The repercussion he feared was the departure of other workers and that his hacienda would eventually be "depopulated."<sup>378</sup> His former employees threatened his current labor force, but there was a financial motive for the lawsuit too.

The men who tried to turn other *gañanes* against Huerta were a potential financial loss in another way. His tribute list included the defendants thus making him liable to pay on their behalf when collection time came. He clearly stated that he was "sin obligación," or without obligation to pay for any of the men. On April 26, 1690 the natives appeared in court. They agreed to desist from instigating any trouble or unrest on Huerta's hacienda. The *teniente* Juan Martín, Juan Miguel the *merino*, Juan Gregorio, and Pedro Martín, all of whom oversaw royal tribute, appeared also in order to transfer the names of the defendants onto an updated tribute roll to ensure that Huerta would not be responsible for payment.<sup>379</sup> The exact source of the tension between him and the *gañanes* is not known, only that Huerta felt threatened by their influence. In most cases, natives simply wanted their freedom.

Indigenous peoples defined their freedom as something the crown denied it to the enslaved African population. Therefore, natives differentiated themselves in legal terms because they exercised a right not enjoyed universally by all colonial subjects. They

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<sup>378</sup> AHET 96-6: f.5.

<sup>379</sup> Ibid.

occupied a lower status than Spaniards, but they were also free. However, the acculturation of Africans to Spanish culture helped them navigate a society that otherwise deprived them of freedom. At the turn of the sixteenth century, the crown only allowed slaves from Spain to be imported to the Americas. Therefore, acculturated Africans who had served in domestic spaces, in positions such as servants, garbage collectors, and nursemaids, with close proximity to Europeans were introduced to New Spain.<sup>380</sup> Beginning in 1518 the crown changed their policies to allow slave shipments directly from Africa via a monopoly of slave traders.<sup>381</sup> The degree of acculturation that occurred in the New World separated slaves into two separate groups. Those in the "elite" group tended to be more Hispanicized because they were domestic servants or artisans whereas the "non-elite" group were unskilled labor in mines and obrajes.<sup>382</sup> Africans were chattel property for Spaniards, but they relied on them for important testimony in legal cases. As an integral part of a household, slaves knew the day to day lives of the European people they served. And as a lower ranking social group, they knew the lives of natives.

The role of Africans in colonial society was first and foremost as property that required a hefty investment for Spaniards. Owners resold their slaves and just as a piece of land required the proper financial clearance to ensure there was no mortgage or lien preventing transfer of ownership, transactions of human property were no exception. Sebastián Ponce de León, the owner of a drove of animals and inhabitant of Los Ángeles, was in the process of selling two slaves to a Labrador, Francisco Méndez de la Vera. Both slaves, one named Francisco de Guinea and the other Juan, were described as *bozales*, a

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<sup>380</sup> Colin A. Palmer, *Slaves of the White God: Blacks in Mexico, 1570-1650* (Cambridge: Harvard University Press, 1976), 7.

<sup>381</sup> *Ibid*, 9.

<sup>382</sup> *Ibid*, 37.

designation which meant they were born in Africa and were not acculturated.<sup>383</sup>

Francisco's last name, de Guinea, reveals which part of Africa he was taken from.

According to his testimony, Ponce de León purchased them in Cadiz, Spain. The ages of both men was recorded as between 18 to 20 years. Before Méndez de la Vera could purchase the slaves for his son, Marcos, a court had to legally declare that Ponce de León owned them. The court found nothing to impede the sale of Francisco and Juan. Méndez de la Vera attested to the good character of Juan Fernández de Ulloa, the seller serving as an intermediary in this transaction. He attested to the fact that the slaves belonged to Ponce de León and that they were "*libres de empeño hipotecario*," free of a binding mortgage.<sup>384</sup> The practice of using slaves as collateral for debts became more widespread during this time.<sup>385</sup> Marcos Méndez de la Vera successfully received both slaves under his name since his father paid a total of 750 pesos de oro común. The purchase of slaves was a financial risk that Spaniards avoided taking without legal backing in the event that one of the parties involved was dishonest. The health of a slave was also extremely important. In this case, Marcos' father also declared that both slaves were not "*enfermos ni lisiados*," sick nor injured.<sup>386</sup> Spaniards categorized Africans as property, however, courts considered them credible witnesses.

The pueblo of San Pablo Quautotoatlan was embroiled in a legal battle in 1699 because a native of questionable character operated it as his personal fiefdom. Four years earlier, Francisco Amaro became the mayordomo of the town which made him responsible for the assets and money of the community. The trouble began when Amaro

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<sup>383</sup> Ibid, 32.

<sup>384</sup> AHET 86-16: f.5.

<sup>385</sup> Palmer, *Slaves of the White God*, 35.

<sup>386</sup> AHET 86-16: f.5.

handed over 140 pesos to Mateo Marciales. A captain from Los Ángeles by the name of Antonio Bravo insisted to the community that he be paid an outstanding debt of eighty pesos. The natives of San Pablo, as plaintiffs in the case, acknowledged that they did owe him the amount. Marciales had to surrender eighty pesos of the 140 given him by Amaro thus leaving a pending amount of the community's money at sixty pesos. Marciales then claimed that the natives owed *him* eighty pesos.<sup>387</sup> As a result they sued him and brought forth witnesses to support their case.

On October 13, 1699 the first witness testified against Marciales. Licenciado Francisco de Iarsa gave his slave permission to appear in court. Joseph de la Cruz, described as a *pardo*, stated with certainty, under oath, that the 80 pesos paid to Antonio Bravo came from the original sum of 140 pesos in Marciales' possession.<sup>388</sup> He described Marciales as a person who dominated the town with ruthless abandon. The extent of his power, according to de la Cruz, permitted Marciales to incarcerate the mayordomo with allegations that he was owed money. The motive for his accusations rested on his desire to litigate against the natives whom he "had so accosted that they lacked the strength to defend themselves."<sup>389</sup> With these words, de la Cruz made scathing statements to the court about the character of Marciales.

Francisco de Vargas and Joseph de Vargas, both farmers, went forth as witnesses who shared de la Cruz's views about Marciales. He exerted power by force over the community as he filed numerous lawsuits "continuously" causing financial strain on the

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<sup>387</sup> AHET 104-2: f.5.

<sup>388</sup> In the caste system of Spanish America, the significance of the terms used to describe the different castas could be ambiguous. A *pardo* was a person of African, and indigenous mixed ancestry. Matthew Restall, *The Black Middle: Africans, Mayas, and Spaniards in Colonial Yucatan* (Stanford: Stanford University Press, 2009), 77.

<sup>389</sup> AHET 104-2: f.5.

natives. To Francisco, Marciales' allegation of a debt and his imprisonment of the mayordomo was "not because he is owed anything, but only to be malicious to the town."<sup>390</sup> The third and final witness, twenty-two year old Joseph, corroborated the nature of the defendant's character. Marciales "would be the cause of perdition of the natives." He testified about the frequency with which this individual filed lawsuits against natives.

The testimony of these witnesses was different in telling ways. The most obvious was their ethnic background. De la Cruz was of mixed African descent whereas the others were described as "vecinos and labradores," the usual designation for Spaniards in documents. Of all three, de la Cruz had the most personal knowledge about the eighty pesos that Antonio Bravo received. Francisco and Joseph could not state directly whether or not Amaro had given the sum of money to Marciales; they did not know. On the other hand, de la Cruz knew. How was it that he knew? Although he did not explain, his status as a colonial slave could provide insight. The many lawsuits between natives and blacks was symptomatic of the tension between these two groups. They constantly clashed because they lived in close proximity and had regular interaction. This factor could have given de la Cruz access to information otherwise denied to "outsiders." The very animosity between both ethnic groups could have fueled exaggerated testimony as well. Yet another possibility is that he testified on behalf of his owner. It is also interesting that he was mixed; would a *bozal* have been allowed to testify? Unfortunately, the historical record cannot provide all answers. But what it shows in this case, explicitly, is the validity of a slave's word in court, under oath. Being a credible witness trumped the

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<sup>390</sup> Ibid.



status of chattel property, however, it was the latter classification that carried the most weight in how natives utilized legal rhetoric and defined themselves as free persons.

The denial of freedom to others facilitated natives' complaints when someone, usually Spaniards, negated them that right. The decisions meted out by the court supported the right to be free and exercise their free will. Because the royal *cédulas* spelled out their status, natives did not waver in their arguments to enjoy what the king had granted them. The legal language of the seventeenth century was replete with pleas for freedom against Spaniards who abused their higher position in the hierarchy. Natives aimed to be free as well as not be treated "as if they were slaves."

The Tlaxcalan legal record shows a high level of conflict between natives and people of African descent. Pat Carroll has examined how the Afro-Mexican population interacted with the indigenous one in New Spain as a whole. He found some conflict, which he deemed "anecdotal," but overall a clear, defined division separating them was lacking in their day to day contact.<sup>391</sup> The designation of a town as a *pueblo de indios*, or an Indian town, was supposed to be adhered to according to colonial authorities. In other words, legally no other group of people were supposed to live among natives. In the case of Tlaxcala, this classification and the autonomy of the indigenous government likely fueled the sense of "otherness" between them and the Afro-Mexican population.

Juan Diego from Santiago Xalahco, in the jurisdiction of Huamantla, represented himself and his wife, Cecilia María in the Juzgado because Martín de Bosmediano, a Spaniard, harassed them. This was the second attempt at justice since a past decreto had

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<sup>391</sup> Pat Carroll, "Black Aliens and Black Natives in New Spain's Indigenous Communities," in *Black Mexico: Race and Society from Colonial to Modern Times*, eds. Ben Vinson III and Matthew Restall. (Albuquerque: University of New Mexico Press, 2009), 73-75.

been neglected rather than carried out to help the couple. Justice eluded them, but Bosmediano, with the help of his brother, retaliated against Juan. Both men apprehended him and hurt him physically "in a cruel manner."<sup>392</sup> Feeling threatened, he abandoned his home. The original court order called for a 200 peso fine levied against Bosmediano if he bothered Juan. The second filing reinforced the prior decision, protection for Juan and his family. The Juzgado clearly stated that he "should be left alone to live freely." That ruling was the outcome desired by natives who spent precious time and money in the legal system. The crown had granted them the status of free people; therefore, plaintiffs such as Juan capitalized on this classification to fight off the coercion that would have otherwise stripped that status of meaning.

By this time, it had been over a century since the crown granted the first *cédulas* which relieved natives of labor and nearly seventy years since loyal services during the conquest earned Tlaxcalans preferential treatment. Procuradores kept a firm grip on the results that legal precedents such as these would yield. Servitude unbecoming a free person combined with the violation of laws, ignored but existent nonetheless, protective of natives were an inconvenience for Spaniards who wanted to get away with exploitation. During the summer of 1654, four Spaniards, all of whom had the surname González but did not mention if they were related, intimidated the natives of Santa María Techcalac. The plaintiffs described the influence of these men as having a "powerful hand" which they used to "obligate and compel" them to serve against their will.<sup>393</sup> They lived in fear of what the defendants would do thus, they sued to protect their freedom. The Spaniards had something else to gain: land. Their scare tactics seemed to have

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<sup>392</sup> AGN Indios 19-85: f.43-43v.

<sup>393</sup> AGN Indios 17-136: f.145.

accomplished what they wanted because natives feared that the men would acquire their land holdings if forced to flee the town. Agustín Franco, the procurador, argued the right of his clients to "vivir libremente en conformidad de las cédulas de su majestad," live freely in conformity with the royal orders of his majesty. The lawsuit accomplished what the natives sought; the Spaniards had orders to respect the freedom of those they tormented. Nobody was to force them to serve against their will and a fine of 100 pesos applied if the defendants disobeyed. The natives of Santa María Techcalac faced a life altering change thus they found legal grounds in the cédulas to curtail loss of assets to the González clan. But the dissatisfaction with a labor arrangement was sufficient grounds to file a lawsuit as well.

Although the length of service was not specified in the case, Andrea Martín decided she had had enough in August 1656 under the service of María Ruis, the Spanish widow of Diego de Montiel. On the grounds of lack of "buen tratamiento", or good treatment, the plaintiff wanted the Juzgado to honor her request for freedom. Martín's request was buttressed by the absence of debt; she did not owe the widow anything, "cosa ninguna."<sup>394</sup> She emerged victorious; the Juzgado validated her arguments by ruling that neither the defendant nor anyone else should force Martín to render service. According to the court, she had the right to "be and live freely" where she chose "without grievances." The person whom she complained about, María Ruis, was to receive notification of Martín's protected freedom "in conformity with the royal cédula of your majesty." She legally had the opportunity to go serve elsewhere and whomever she chose. If the widow decided to pursue her former employee, the latter had the backing of

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<sup>394</sup> AGN Indios 20-213: f.168v.

the court with which to defend her freedom. There were also preventive measures in the event that Martín filed new complaints concerning this same situation, whether it involved the same defendant or not.

Cristobal de Alcocer was a Spanish Labrador who needed to know that the Juzgado was prepared to address future transgressions. Six native men from the town of Santa María Tzatzacui found themselves "*muy molestados y vejados*," very bothered and vexed, by de Alcocer. Five years earlier, a couple, Juan Francisco and Antonia, sued this defendant for the same type of mistreatment in another town. In February 1661 Juan Domingo and the other plaintiffs accused the Spaniard of trying to force them into his service. According to the procurador, Fernández Olivares de Carmona, he wanted them to serve, "*como si fueran esclavos maltratándolos de obra y de palabra*," as if they were slaves treating them badly by deed and word.<sup>395</sup> The Juzgado granted protection from future mistreatment and entanglements with the Labrador. The order clearly stated that they were "to live freely in their town in conformity with the royal cédulas and the auto stipulated by this Real Audiencia." Moreover, de Alcocer faced a fine of 200 pesos if he contradicted the ruling and he had to pay the men any wages he owed them. Trying to exploit the indigenous population indiscriminately was nothing new in Tlaxcala, but the distinction between free subject and slave was a means to avoid servitude. Legally, the system honored the difference between the African and native population which the latter used to their advantage.

Court rulings favoring natives must have been vexing for some Spaniards because they lost labor and faced the possibility of losing money if they used force. Gerónimo

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<sup>395</sup> AGN Indios 19-355: f.199.

Valera decided that perhaps even unfavorable decisions could serve a useful purpose. He teamed up with his intimate friend, Miguel Ruiz de Parada in August 1648. Unaware of what their names would be used for, Valera forced natives to write their names and signatures on a paper. De Parada granted his friend a poder which enabled him to initiate litigation on behalf of the unsuspecting natives. According to the principales of the four altepetl of Tlaxcala, all of this was orchestrated for financial gain. "Dineros y aves," money and birds, was the price exacted from the bogus plaintiffs.<sup>396</sup> Natives were savvy in court, thus the defenders of those swindled by this scheme requested that the judges of Tlaxcala conduct a thorough investigation so that there would be reimbursements for the "*gente incapaz*," or incapable persons, affected. They could hold their own in court, but the principales portrayed natives as meek and incapable in order to emphasize the protection needed from the abuses of Spaniards. In fact, legal documents demonstrate the contrary; they won court decisions which helped them fight off aggressors. And they were not afraid to sue multiple times to get justice.

The courts upheld the right to freedom but Spaniards tried to find "legal" ways to bind natives to their farms and estates. Debt was a formidable tool in the hands of those who wanted to find a way around a protected free status. On the other hand, natives' complaints revealed that perhaps there was no debt binding them to Spaniards or estates. They stayed on hoping to see some of the money they had earned over time. Refusal to "adjust accounts" landed Spaniards in court suing for the money owed in wages or just freedom from servility without wages.

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<sup>396</sup> AGN Indios 15-94: f.67-68.

Francisco Martín from the town of María Nativitas no longer wished to serve Juan Bernal, a Spaniard whose harassment he endured. Martín sued him because he forced him to serve on his estate against his will and without payment. Bernal ignored requests for wages earned over the course of "many years."<sup>397</sup> Service began under someone under the same name, perhaps Bernal's father, who was deceased. Therefore, Martín's pleas to the Juzgado were freedom and the hefty sum owed for labor. The amparo ordered restitution of earnings and the right to "be and live freely in his house and town without grievances" with a penalty of 200 pesos if the contrary happened.

Just as Bernal wanted to keep natives by force, the inhabitants of Santa María Texcalac, south of Tlaxcala, sued Juan López for similar reasons. The plaintiffs were Gaspar Hernández, Pedro Hernández, and their wives and children. In the May 1677 filing, they accused López of three violations: lack of pay for labor, refusal to consult the account books in order to adjust accounts, and forced servitude.<sup>398</sup> The procurador, Sebastián Vásquez, argued for liberty under cédulas and prior autos. The outcome enforced freedom requested and payment. On July 1, 1677 the Juzgado followed up on the May decision. The court restated the previous ruling on behalf of the Hernández families. Nevertheless, López was in bad standing with the church; the cathedral of Los Ángeles labeled him as excommunicated. An official was to deliver notification of the legal proceeding against him and make him appear with his account book in order to pay and adjust the ledger. However, this was contingent on the removal of his name from the church's list. The natives had to wait for financial justice, but the amparo helped them escape the control of the labrador.

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<sup>397</sup> AGN Indios 19-22: f.11v.

<sup>398</sup> AHET 88-29: f.4.

Pablo Martín thought that his troubles with Antonio de Espinosa were settled with his lawsuit against the Spaniard whose outcome made further harassment punishable with a fine of 100 pesos. Martín was "very bothered" and was obligated to serve "forcibly and against his will."<sup>399</sup> But de Espinosa countersued claiming that he had to work for him "with the pretext that he owes him monies," an allegation which the plaintiff contradicted as "sinister." The Juzgado upheld the first amparo and sided with Martín again, not only restating his right to liberty, but increasing the fine for any violations to 200 pesos as well. Natives made trips to the courts in Mexico City because their freedom depended on it. Significantly, they possessed the freedom they wished to protect and exercise when they traveled to file lawsuits. Some were at the mercy of the pleas of others for freedom.

The gobernador, alcaldes, and regimiento of the city of Tlaxcala spoke on behalf of natives who lacked freedom in obrajes. They suffered from "imprisonment and slavery," *encerramiento y esclavitud*.<sup>400</sup> Obrajeros and their accomplices, mayordomos and alguaciles most commonly, kidnapped individuals from Tlaxcala and the surrounding areas such as Los Ángeles, Texcoco, Cholula, and Xochimilco. Others were apprehended with dubious *cartas de justicia*, a dispatch, obtained through "sinister" means; they were probably falsified. And for the natives who were not locked away in obrajes, the threat of obrajeros caused them to flee and "wander from town to town." In 1654 the cabildo's plea was to call attention to the corruption of obrajes, point out how natives were deprived of freedom, and finally to ensure that the auto favoring the workers was honored. The labor was virtually free and obrajeros had one other way of generating profit besides selling cloth.

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<sup>399</sup> AGN Indios 21-175: f.156-156v.

<sup>400</sup> AHET 74-4: f.1.

On October 11, 1696 Juan Domingo, the indigenous town crier, had an important message for participants of the obraje industry. The urgent message he announced in the public plaza preceded by the sound of trumpets concerned the sale of wool. Authorities had registered a spike in prices thus Domingo's message was an admonition for those to blame. The cause was hoarding wool in large quantities thus decreasing the supply and driving up prices. The auto was clear: only shearers should sell wool to owners of obrajes, trapiches, workshops, and other persons who used it to weave and spin.<sup>401</sup> They could only buy what they needed hence the court declared illegal the purchase of surplus quantities for resale. Any of the buyers listed above found to possess an excessive quantity of wool was subject to a whopping fine of 500 pesos. Nor was anyone in the business of wool and spinning to buy anything from hagglers. The costly penalty for this offense indicated the high incidence of this market disrupting practice. When natives obtained additional amparos for previous lawsuits, the fine increased from 100 pesos originally to 200. It was not farfetched that obrajeros in the business of selling cloth manufactured by a coerced, captive labor force found ways to manipulate prices.

If the people who exploited natives for labor would have had their way, freedom would have been a rarity. After all, from their point of view, their personal wealth and the colonial economy depended on servitude. The payment of wages occurred, but a universal acceptance of waged labor performed by free persons did not exist yet. During this time period legal cases contain words such as "amo," or master even as waged labor is described. Natives in Tlaxcala sued landowners who saw them as an extension of their

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<sup>401</sup> AHET 100-17:f.8.



holdings. In other words, they fought back to not be considered accessories that came with land.

Cristóbal de Alcocer purchased an hacienda from another Spaniard, Domingo Hernández. Juan Francisco and his wife, Antonia, served under the original owner when de Alcocer purchased it. In March 1656 the couple sued the new owner because he wanted them to remain there despite their wishes to leave. According to them, he forced them to serve "against their will" which was an infringement on the royal *cédulas*.<sup>402</sup> And he falsely accused them of debt. De Alcocer charged them eight pesos for an ox, a dead one. The animal died and the Spaniard took the meat for himself yet he expected payment. The Juzgado granted an *amparo* for their freedom thus de Alcocer nor any other person could prevent them from living "freely in their town [San Francisco Metepeque]," free of harassment. A fine of 200 pesos was the penalty for any violations.

Francisco Flores from Santísima Trinidad sued for freedom in June 1656 because two subsequent owners of an hacienda wanted to keep him on an hacienda. He served Nicolás Gonzales, a Spanish *labrador*, first, but upon his death, "some Spanish women" inherited his multiple estates.<sup>403</sup> They went on to sell them to another Spaniard, Francisco Roldan. Because Flores was part of the labor force on those estates, Roldan had no other expectation but that he would serve under him. When the native refused, he was the target of threats and intimidation. Like Alcocer, this landowner also faced a court decision detrimental to his plan of forcing someone to serve against their will. He also faced a 200 peso fine if he subjected Flores to further abuse or scare tactics. Furthermore, as in the previous case, the *amparo* protected him from Roldan or any other

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<sup>402</sup> AGN Indios 20-75: f.45-45v.

<sup>403</sup> AGN Indios 20-132: f.93-93v.

person with similar intentions. Spaniards who acquired haciendas tried to decide the fate of Juan Francisco and Francisco Flores. Others made their property more enticing to buyers by including the labor.

The hacienda called La Venta del Agua, literally the sale of water, belonged to Juan and Cristóbal Guerrero, brothers. Joseph Hernández and Andrea Francisco, his wife, were *gañanes* on that estate for about twenty-five years. Both men wished to include the couple in the land sale thus transferring land and natives to an unspecified buyer. The couple's testimony cited debt as a pretext to include them in the sale. The procurador, Juan Feliz de Gálvez, asked the Real Audiencia not to allow the Guerreros, nor any other person, "to obligate them under any pretext to serve against their will."<sup>404</sup> He also pleaded for a fair revision of any debt owed, whether Juan Guerrero owed the natives money or the other way around. One month later, on June 26, 1961, Cristóbal appeared in court to settle accounts. On page seventeen of the book he exhibited in court, the amount originally owed by the couple was 199 pesos and 2 reales. He factored in wages earned at the rate of 3 pesos and 2 reales monthly thus decreasing the amount to 170 pesos. In an act of benevolence, which was sincere or a defensive tactic, Guerrero forgave three pesos and 2 reales on that ledger. He stated that since he had raised Joseph, he would forgive yet another twenty pesos on the outstanding debt. Therefore, the ending balance was 150 pesos. The brothers had reason to expect more labor from Joseph and Andrea, they owed money. However, the court did not approve the inclusion of the natives as part of the land sale. The protection of their freedom was explicitly stated. The payment of debts was to occur, but the Guerreros' intended terms of sale were not

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<sup>404</sup> AHET 96-16: f.3.

approved. Labor would continue under new owners, but a balance of zero on debts would free the couple.

The financial problems of the cabildo and macehuales hardly improved during the last decades of the seventeenth century. Tribute was still a monetary hindrance for the indigenous government and for poor, overworked commoners. By this time, there was a noticeable trend manifesting itself in legal cases: natives fended for themselves in court against abuses. In the past, cabildo officials traveled to Mexico City to represent the grievances of macehuales more often. But the unity that characterized Tlaxcala had fractured with the influence of outsiders such as Spaniards and mestizos.

Andrea Martínez Baracs pointed out the different conflicting forces at work in the cabildo and how macehuales perceived the breakdown of pre-Hispanic hierarchies, with the cabildo's main purpose being to give native leadership legitimacy to rule. According to her, there was a loss of "love" between commoners and the nobility, or *pipiltin*.<sup>405</sup> The collusion between cabildo officials and the Spanish gobernador undermined the cohesiveness of the institution present at the beginning of the century. In the midst of social and political strife, economic pressure mounted with changes to tribute collection and with monies paid to ecclesiastical authorities.

Ever since the cabildo argued for a lower number of tributaries, the goal was implicit. Fewer natives on official rosters signified a smaller amount of tribute due at the end of the year. Martínez Baracs pointed out that the number of tributaries was adjusted by royal officials between November 1670 and May 1671.<sup>406</sup> According to her, macehuales became angry with the cabildo when the count rose from 5,911 to 11,871

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<sup>405</sup> Andrea Martínez Baracs, *Un gobierno de indios*, 368.

<sup>406</sup> Ibid, 367.

although the logic was that the amount paid per person decreased from five to two pesos.<sup>407</sup> Others supported the change. However, the resentment was justified because colonial officials charged the amount in arrears from August 1671 to February 1672 basing themselves on the new count, thus doubling the amount owed.<sup>408</sup> Macehuales responded with a rebellion that frightened officials.

Fernando Niño de Castro and other gentlemen and vecinos of Tlaxcala witnessed the scene in the main plaza where approximately 2,000 natives gathered. They tried to enter a building but the door was closed on them. This caused them to begin throwing rocks. The Spaniards present drew their swords menacingly so as to "scare them," but they inflamed their ire. The priests appeased the turmoil, and Spanish officials decided against apprehending anyone to avoid making matters worse.<sup>409</sup> The latter were more discreet and had an investigation of who had instigated the violent episode and its causes carried out in order to punish them. The official's testimony initially dismissed the cause as simply having the door closed on them, but the discontent of macehuales was palpable.

The clergy in Puebla felt the backlash because the amount per person supposedly due was two pesos under the new count, but other amounts were added to the current year of tribute. Thus, three pesos was what natives had to pay. Four thousand natives from Puebla contested the fee of three pesos. The clergy helped officials communicate the fact that they *must* pay that amount, but they did not care. The Real Audiencia ruled that tribute paid by each person was not to exceed four pesos and four tomines.<sup>410</sup> This was less than the five pesos paid before the change in tributaries, but the damage was done.

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<sup>407</sup> Ibid, 370.

<sup>408</sup> Ibid, 372.

<sup>409</sup> AHET 85-32: f.11.

<sup>410</sup> Ibid.

The macehuales were at odds with the cabildo, who was supposed to defend their interests, and with Spanish officials whom they felt had tricked them.

The measures taken in 1672 failed to solve the financial problems of the cabildo and by extension those of a king extracting money from his colonies. In May 1698 the indigenous gobernador, Don Miguel de Celi, faced the loss of his freedom as did his fellow cabildo officials. The assets of the community were at stake as well. The accountant of royal tributes informed them of a debt amounting to 2,261 pesos. In his opinion, the cabildo had the funds readily available from a surplus. They denied this to be true and pleaded for their freedom. But the court had reached its decision. The auto declared them arrested and were ordered not to leave the chamber of the cabildo, which was to be their prison.<sup>411</sup> Days later Don Miguel de Celi and other native officials presented their version of the story to the court. They called themselves "your most obedient and humble servants," but they made compelling arguments about tribute counts.

In their letter, they argued that there were 11,543 tributaries as opposed to 12,973 listed on the roster used by the court. The higher number included "*viejos e impedidos*," the elderly and the handicapped. According to them, the population decreased due to devastating epidemics and hunger. On May 15, 1698 the cabildo received approval for a waiting period of six months to gather the funds in order to satisfy the debt of 2,161 pesos. Nevertheless, the court approved no amendments for tributary counts. Four days later, the cabildo responded by laying out the expenses of the government. They acknowledged a surplus for the amount, but they put it back into the community box.

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<sup>411</sup> AHET 102-12: f. 4.

Then the alleged surplus *and* 13,000 pesos was spent on receiving viceroys. According to their calculations, a credit of 2,161 pesos required each tributary to pay more than the twelve reales they currently paid. This was not their fault they maintained, and making matters worse, they were prisoners. Although the case ended with Celi and his men in that predicament, the solution was most likely a communal property sale or adding the arrears to another year. The long list of expenses draining the pockets of macehuales frustrated them at the end of the seventeenth century. Arrears were common for tribute thus the pressure for a poor, exploited population to keep contributing money was exhausting.

Another institution that kept itself afloat with macehual funds was the Catholic Church. There were rules which designated which fees natives paid to the church, but different officials bent these or ignored them altogether. Fees for services or tribute in kind for religious institutions enriched many. The cabildo collected tribute that allotted for church constructions and other expenses. However, informal economic practices thrived and ensured the financial well-being of the clergy and their parishes.

Religious instruction was the cornerstone of conquest; therefore, ecclesiastical holidays, ceremonies, and sacraments figured prominently in the fabric of everyday life. If they were to live up to the expectation of being good Christians, natives had to accept Catholic dogma and take part in religious activities to demonstrate piety. This came at a cost. Monetary contributions by natives, in any situation, attracted corruption. On December 30, 1650 mandones from three of Tlaxcala's altepetl, Tizatlán, Ocotelulco, and Tepeticpac, denounced three priests, Diego Muñoz Ballesteros, Antonio Gonzales Lasso, and Diego Baca. Juan Martín and the other ten mandones accused the clergymen of not

complying with a law promulgated nine years earlier on July 19, 1641. It stated that no money should be charged for burials, weddings, and baptisms.<sup>412</sup> They protested because the defendants forced natives to pay three pesos and 4 reales for the burial of an adult, five pesos and 5 tomines for a wedding, and three reales for a baptism. The priests also required alms of over three pesos from natives and a little over five pesos for fiestas celebrating a titular saint. Combinations of currency, wine, and chickens also helped fund festivities. The men pleaded for the excommunication of the priests in order to stop and prevent abuses in the future.

The representatives of the diocese of Los Ángeles clarified permissible fees for sacraments and celebrations, most accommodating to natives' limited financial means. The cost for baptism, for example, was left to the discretion of the godparents, "whatever the godparents wish to give." Marriage announcements, or *amonestaciones*, were supposed to cost six reales, not even one peso. The maximum fee for a burial was one peso. And finally, if natives paid with money and chickens, the fowl had to discount a portion of the fee. The outrage Juan Martín and his fellow mandones felt was mainly about the money filling ecclesiastical coffers. But foodstuffs were so valuable as well that five towns of Tizatlán sued in 1653 because the priests asked for exorbitant amounts of food, from chickens to bacon.

Agustin Franco, the procurador, represented the natives from Santa Cruz, San Antonio Cuauxumulco, San Miguel Sontlazingo, San Lucas Chocalco, and San Bernabé Amaxal. The clergy violated the cédula of November 26, 1645 and they filed a lawsuit. It stated that priests should not receive "servicio personal, rations, nor other things," the

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<sup>412</sup> AGN Indios 16-24: f.21-24.

opposite of what transpired in Tizatlán.<sup>413</sup> Three mass services cost the natives of Cuaxumulco ten pesos plus one for wine, one chicken, four reales worth of fish, four reales worth of eggs, three of bread, two of shrimp, two of lard, one of saffron, and another real worth of fruit. Each service or celebration cost natives money and a long list of food items. The annual cost drove the towns to seek legal representation because they were "harassed and afflicted." The Juzgado awarded them an amparo and appointed Diego Vara to oversee adherence to the cédula forbidding rations for clergymen. Natives had been taught to sacrifice themselves for the Church, but the excesses of those who saved their souls drove them to rebel against the high price of faith, so high that it interfered with their survival. Even the cabildo, who led religious festivals, questioned the extravagant celebrations.

The church gave special attention to the festival of Corpus Christi and fiestas for titular saints. The budget for their celebrations matched their religious significance. The cabildo spent a total of 1,716 pesos and one tomín on Catholic holidays in 1671. The money came from the community assets of the community. The most elaborate procession took place during Corpus Christi. Nails, ribbon, fireworks, fuses, and "other things" cost 305 pesos. Observance of the celebration for the Guardian Angel cost considerably less, thirty-three pesos.<sup>414</sup> In August 1671 the Spanish gobernador reviewed how native officials spent money from the cabildo's property and rents. His advice was to not make the expenses "superfluous if they were not necessary for the utility of their republic." Furthermore, the indigenous gobernador had not disclosed the value of property held nor whether they had collected rents. Financial deficits plagued

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<sup>413</sup> AGN Indios 19-56: f.28v-29v.

<sup>414</sup> AHET 85-12: f.3.



the account books of the town government but more income was unlikely to come from macehuales despite corrupt attempts.

The natives of six towns sued as a community in 1660 because a native representing the church of Topoyanco bothered them. He tried to force them to pay four pesos each with the excuse that it was needed for processions during Lent, but they knew it was a lie.<sup>415</sup> The procurador successfully argued that royal cédulas forbade this type of taxation on natives. The Juzgado decided to protect the plaintiffs; no tax or pension was to be given to anyone.

Macehuales paid tribute and contributed towards the construction of churches, obligations which were taxing enough. Royal authorities decided in 1560 that the income for the construction of the cathedral of Los Ángeles would come from three sources: the royal treasury, the towns within the jurisdiction of the bishopric, and encomenderos and natives.<sup>416</sup> The *tercio*, or third part, paid by macehuales amounted to 1,092 pesos in 1662. This was another fee added on to tribute and it was still based on a population of 16,000 tributaries. Natives of all social classes could not escape the cost of Spain's empire. If they were not handing over money, they were in a position of power being held accountable for its collection or lack thereof.

The end of the seventeenth century was a time of frustration and conflict. The cabildo was no longer as prestigious as it had been, and not all officials could claim noble lineage the way they had at the beginning of the century. The institution's waning power prevented it from legally representing natives the way it had in previous decades. Macehuales came to their own defense or sought support from neighboring towns that

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<sup>415</sup> AGN Indios 19-203: f.111-111v.

<sup>416</sup> AHET 78-13: f.3.

suffered the same abuses. Another riot, this time in June 1692 in Tlaxcala, demonstrated the issues simmering below the calm appearance of the city. Martínez Baracs pointed out that the immediate cause was the scarcity and speculation related to two food staples, corn and wheat.<sup>417</sup> Political greed and self-serving alliances on the part of the Spanish gobernador constituted the main cause of commoners' violence; they had stopped receiving the grains they needed for survival.<sup>418</sup> The fact that no major rebellions and riots had taken place previously demonstrated that Tlaxcalans reached a breaking point. The eighteenth century would usher in more changes and natives would continue to fend for themselves.

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<sup>417</sup> Andrea Martínez Baracs, *Un gobierno indio*, 398-399. She identifies these causes as the same ones underlying the riot that occurred in Mexico City a week earlier in 1692.

<sup>418</sup> Ibid.

## Chapter Six

### Shifts in Labor Towards Independence 1700-1796

Charles Gibson wrote, "If our sources may be believed, few peoples in the whole of history were more prone to drunkenness than the Indians of the Spanish colony" in conclusion to his defining study about native peoples in Central Mexico.<sup>419</sup> The social critique of Tlaxcalans, and natives overall, by Spaniards and hacendados during the eighteenth century would have us believe that this statement was the unmitigated truth. There was truth to observations about indigenous drinking habits, but other social and economic pressures, especially those concerning labor, shaped these views.

The seventeenth century had ushered in political divisions within the cabildo and influences from duplicitous Spaniards that lessened its effectiveness as an institution. According to Martínez Baracs, there was a schism between the city of Tlaxcala and the towns surrounding it. Natives with the lineage of caciques, as she called them, who were eligible to hold office were confined to the area within the city. In other words, they had lost power and influence in the surrounding altepetl.<sup>420</sup> She noted that there was a "resurgence" of native towns despite this fact, nevertheless, the lawsuits filed by macehuales demonstrate that there was less reliance on the cabildo for justice. Also, by this time haciendas brought commoners into much closer contact with the Spanish population. These estates further entrenched the complicated and conflictive relationship between both groups.

Litigation dealing with labor during the eighteenth century shows a class of macehuales, known by new designations such as peons, peasants, gañanes (workers who

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<sup>419</sup> Gibson, *The Aztecs Under Spanish Rule*, 409.

<sup>420</sup> Martínez Baracs, *Un gobierno indio*, 448-449.

lived permanently on haciendas), and *tlaquehuales* (workers who freely rented themselves out on different estates), who fended for themselves and became violent if necessary. They represented themselves in court to force landowners to adjust account ledgers and sometimes resorted to making false accusations to get revenge. Whereas in the late sixteenth century native communities owned more tracts of land, it was now concentrated in the hands of fewer, notably Spanish men. This chapter demonstrates how resistant natives became to labor abuses and exploitation.

According to Mark D. Morris, a resurgence within the cabildo was led by a macehual named Pascual Antonio Moreno during the 1740s who wanted an overhaul of the corruption which reigned under close watch of the Spanish gobernador and powerful caciques.<sup>421</sup> His grassroots movement was short lived, but the frustration, resentment, and desire for change which fed it in the first place set the stage for an Independence movement that later appealed to the masses.

The perception of the supposed nature of natives informed the decisions of those who had power over them. Courts identified undesirable traits, considered various causes for behaviors, and suggested solutions for their betterment, especially as it concerned labor. According to the court testimony from gobernadores, mayordomos, and other officials, natives had a predisposition to be "insolent" and "idle." The way authorities saw it, they could either be *gañanes*, permanent workers who lived on the haciendas and were accounted for on tribute rolls kept by the owners, or *tlaquehuales*.<sup>422</sup> Hacendados

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<sup>421</sup> Morris, "*Pascual Antonio Moreno and the Renaissance of Mesoamerican Legitimacy in Colonial Tlaxcala*" (PhD diss., Indiana University, 2004).

<sup>422</sup> Herbert J. Nickel and Ma. Eugenia Ponce Alcocer, eds., *Hacendados y trabajadores agrícolas ante las autoridades: Conflictos laborales a fines de la época colonial documentados en el Archivo General de Indias* (México: Universidad Iberoamericana, 1996), 22.

overwhelmingly preferred the status of *gañan* over the other choice for obvious reasons; it tied them to the land. Colonial authorities believed that living on landed estates civilized natives and would not let them relapse into insolence and laziness.

Don Florencio Ramírez, the native *gobernador* who needed no interpreter because "he spoke and understood the Spanish language very well," complained about the recent unruliness of the natives in his jurisdiction.<sup>423</sup> Since idleness plagued them, they refused to work daily on haciendas, did not fulfill Christian duties, and failed to pay tribute.<sup>424</sup> Don Joseph Castro Caballero, the ecclesiastical judge of the *doctrina* within Ramírez's jurisdiction, shared the same opinion. The judge spoke of a recent change. Before, a mild punishment, "*ligero castigo*," sufficed in order to make native laborers comply with their obligations, but now it was very difficult to make them obey.<sup>425</sup> He authorized the *gobernador* to prevent natives from having a lifestyle akin to "vagabonds" by giving him permission to use "all mediums... conducive to subduing these natives and obligate them to work, making the *labrador* who needs them come to that tribunal."<sup>426</sup> The judge specified the terms of labor: work in exchange for a wage. Laws and royal orders existed on the matter which ensured that labor was done for money, not for free. However, those same laws stipulated punitive consequences for natives if they failed to carry out obligations.

The supposed innate laziness represented a monetary loss for landowners in another manner. The practice of giving advances to workers backfired miserably because

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<sup>423</sup> Cuaderno 15 from the Archivo General de Indias, in Herbert J. Nickel and Ma. Eugenia Ponce Alcocer, eds., *Hacendados y trabajadores agrícolas ante las autoridades: Conflictos laborales a fines de la época colonial documentados en el Archivo General de Indias* (México: Universidad Iberoamericana, 1996), 386.

<sup>424</sup> Ibid, 379.

<sup>425</sup> Ibid, 384.

<sup>426</sup> Ibid, 385-386.

the labor promised was not performed. From the point of view of workers, perhaps there was no true incentive to produce when any wages earned would go towards paying off a debt to an exploitative landowner. The colonial economy was stagnant. A market in which goods were available in suitable quantities had not materialized and neither had a population that had buying power. Most significantly, a market for free labor was also missing from the equation. The economy would show signs of sustainability once it had some of these factors.<sup>427</sup>

The escribano real testified that labradores complained and that the labor was "not executed" because natives preferred to "be idle and vagabonds."<sup>428</sup> The alcalde mayor corroborated those reports. According to him they were in a state of "perversion" since they asked multiple landowners for advances but refused to serve any of them. The money was for medical emergencies and pensions, however, they became idle and to make matters worse, drunkenness was a continuous activity.<sup>429</sup> Spaniards and officials portrayed natives as brutes who lay around doing nothing but avoiding labor. Furthermore, they had no interest in church attendance, adding to the exasperation of officials and landowners.

The testimony of a cleric emboldened the strong reaction against the "nature" of the labor force. Don Manuel Luis de San Martin, a priest who presided over the religious instruction of the doctrina of San Miguel Huejotzingo, described a lifestyle that easily persuaded others to believe that natives had reached a nadir, morally speaking. According to him, his ecclesiastical jurisdiction was replete with those who "lived in

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<sup>427</sup> Eric Van Young, *Hacienda and Market in Eighteenth-Century Mexico: The Rural Economy of the Guadalajara Region, 1675-1820* (Berkeley: University of California Press, 1981).

<sup>428</sup> Ibid, 381.

<sup>429</sup> Ibid, 382.

malice in the cities and towns," and "so insolent that they do not even preserve the authority of their gobernador nor alcaldes ordinarios, nor do they preserve obedience, respect, and veneration for their priest."<sup>430</sup> He complained of low church attendance because he knew the larger population of his doctrina was unaccounted for in Sunday masses. He blamed the gobernador and alcaldes who then brought natives to him. What occurred next was hardly an incentive to faithfully attend religious services and festivities. An undisclosed number of natives received six lashes each as punishment for lack of spiritual devotion. The unmistakable message was that there was labor to be done on haciendas and wages to be earned in exchange for a better life. The implicit argument was if idleness ruined the indigenous population, industriousness uplifted them. Haciendas hardly fit the bill of stable places with mutually beneficial labor relations. The defiance described in court cases was born of inequality.

For all of the moral shortcomings that authorities pinned on natives, there was also the matter of how landowners held up their end of the bargain. The other side of the coin was a contrast to the didactic rhetoric in lawsuits. Two conflicts plagued the unequal relationship between labor and hacendados. First, the treatment natives reported at the hands of their employers was harsh, sufficiently so that they ran away despite having debts to pay. Second, the ledgers of haciendas were upside down; gañanes and tlaquehuales toiled away in fields only to see their earned wages added to an amount they would receive later, when the landowner had funds. Therefore, they showed up in court to countersue in order to report abuse and to set the record straight on how much money they were owed.

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<sup>430</sup> Ibid.

If landowners would have had the freedom to control labor as they wished, natives would have been convinced that they could never leave the haciendas. Santiago de la Cruz and Felipe de Santiago worked many years for Licenciado don Bartolomé de la Cruz. In 1707 their procurador, Francisco de Gálvez, argued on their behalf that the defendant had never allowed neither of the men to leave the hacienda. Whereas other natives from other haciendas visited their towns of origin, Bartolomé denied them the opportunity. According to the plaintiffs, he told them that because they were servants, they had to "perpetually" serve even though it defied "the royal laws" that "prohibit compulsion and force."<sup>431</sup> De la Cruz tried to instill the idea that natives belonged to the land as serfs did on manors, which was misleading but mild compared to the actions of other landowners.

In 1721 Juan de Santiago, a native from the town of San Nicolás Panotla, defended himself from accusations made by Don Manuel Cornejo, an hacendado from Calpulalpa, that the plaintiff owed him 144 pesos and 4 reales. As de Santiago testified, Cornejo was holding him responsible for the debts of the *gañanes* who fled his hacienda because he had a leadership position, *capitán de tlaquehuales*. According to the captain, after some time the men ran away because of "bad treatment" and intolerable labor." Cornejo's staff made the men rise before dawn at 2 or 3 o'clock in the morning and brought them back to their sleeping quarters at eleven or twelve at night. Therefore, on average, the *gañanes* slept a minimum of two hours or a maximum of four. De Santiago said that the men complained that they rested very little.<sup>432</sup>

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<sup>431</sup> AHET 17- 18: f.: 6.

<sup>432</sup> AHET 48- 28: f.: 3.



The captain sought an amparo for protection against Cornejo and his agents because they wanted to collect the money that he allegedly owed. The hacendado held him responsible for the outstanding debts of the gañanes who fled. According to de Santiago, Cornejo also had a debt to settle; he owed the captain fifteen pesos for labor he had already performed. On April 16, 1720 the Spanish gobernador, Don Manuel de Rosas, received orders to protect Juan de Santiago. Legally, this exonerated him from having to pay 144 pesos and 4 reales and the order placed Cornejo under the threat of a fifty peso fine if he failed to stop harassing de Santiago.<sup>433</sup> It is highly doubtful that he received the back wages amounting to fifteen pesos, but at least he was free of crushing debt. Invariably, accusations of abuse demonstrated the lack of regard for the value of natives. They had to tread a fine line in order to survive and receive the wages hacendados promised them at the beginning of their terms. Mere suspicion of rebellious acts could cost them their lives.

Tomás López feared losing his life at the hands of a landowner with a reputation of having used deadly force against subordinates. Agustín López and Pascual de Sandoval accompanied Tomás in court, on behalf of "the other gañanes on said hacienda," to denounce the actions of three Spanish men. Don Nicolás Contreras was the proprietor of hacienda San Martín, Francisco El Gachupín (a derogatory name for a peninsular) was in charge of the granary, and the third man was Miguel de Contreras, son of the hacendado. The plaintiffs testified that the customary way of being treated was "worse than slaves" and abuse "in word and deed."<sup>434</sup> However, the situation spiraled dangerously out of control because Miguel became infuriated when Tomás failed, or in

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<sup>433</sup> Ibid.

<sup>434</sup> AHET 48-32: f.6.

the defendant's interpretation *refused*, to deferentially remove his hat as Miguel walked past him. The plaintiff told the court that he was working at the moment; therefore, he did not remove his hat as expected. The honor and higher status that Spaniards felt they had compared to natives no doubt played a role in Miguel's immediate response to Tomás' actions. Miguel drew his firearm to avenge the lack of respect. He used the weapon to hit Tomás on his body and stopped short of firing. Had he done so, Miguel would have killed him. He testified that father and son had the habit of "committing such crimes" because it was rumored that one of the two had "killed a poor servant." A surgeon in Tlaxcala examined Tomas in the presence of two witnesses by order of the court. He reported that there was a round wound on the plaintiff's right cheek apparently inflicted with the barrel of a firearm. The doctor could not determine its depth because it was healing. The medical examination occurred on May 5, 1721, the same day that the gobernador ordered the three defendants to appear in court with the account books.

Not only had they feared for their lives, but they wanted to collect wages for their labor. The *gañanes* denounced the actions and murderous reputations of Nicolás and Miguel de Contreras, and a request cast suspicion on Francisco El Gachupín. Their condition for returning to San Martín? The hacendado had to fire Francisco due to all of the mistreatment they endured under his supervision.<sup>435</sup> There is no record of such an order from the court. Nevertheless, the lawsuit caused the three men to appear with the ledgers for "ajustes." Other landowners had less violent methods to endanger the livelihood of *gañanes*.

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<sup>435</sup> Ibid.

Like in the previous cases above, the men on Bernabe Sánchez's hacienda complained about abuse and lack of pay. "Idle" natives conjured up images of social decay and destruction in the minds of officials and landowners. The loss of native communal land limited options for subsistence farming. Thus, *gañanes* depended on *hacendados* for food. Juan Miguel and others sued Sánchez in the summer of 1722 because he was physically injurious towards them. Also, he gave them rations of "bad corn and *pachacate*."<sup>436</sup> Don Manuel de Cornejo's workers suffered from sleep deprivation whereas in this instance the food supply was unfit. Exploitation was the norm; therefore, *gañanes* did not enjoy extra time to grow food nor does the evidence show that they had access to land for their personal use. The fact that *hacendados* failed to pay them wages placed great economic burdens on the labor force.

The monthly pay for *gañanes* and *tlaquehuales* ranged between two and four pesos.<sup>437</sup> The surrounding areas of Tlaxcala offered *gañanes* and *tlaquehuales* salaries as high as eight pesos.<sup>438</sup> There was an explicit salary agreement in the beginning of their service. The indigenous population's collective consciousness that they were not enslaved Africans remained intact. Legal rhetoric and phrases like "as if we were slaves," revealed their long held conviction that they were servants of the crown but free individuals. In theory, during this part of the colonial period the shift was towards waged labor. Abuse and no wages in exchange for labor left a narrow gap between the status of natives and slaves. Landowners provided meals and shelter, but then again they did that

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<sup>436</sup> AHET 52-17: f.2. *Pachacate* is a Spanish corruption of the Nahuatl word *patzactic* meaning blighted wheat, maize, or cocoa. Fray Alonso de Molina, *Vocabulario en lengua castellana y mexicana y mexicana y castellana*, ed. Miguel León-Portilla. 5<sup>th</sup> ed. (México: Editorial Porrúa, 2004).

<sup>437</sup> AHET 48-42: f.1.

<sup>438</sup> Herbert J. Nickel, *Relaciones de trabajo en las haciendas de Puebla y Tlaxcala (1740-1914)* (México: Universidad Iberoamericana, 1987), 28.

for slaves as well. A wage was the difference between a free laborer and a chattel property.

Debt peonage virtually enslaved natives on haciendas. The advances given in food and goods to natives mirrored the forced sales of repartimientos. The goal was the same, to keep *gañanes* in a state of perpetual servitude. In the earlier part of the eighteenth century, natives did not complain about purchasing overpriced goods from hacienda stores against their will. They filed lawsuits because they did not receive wages at all. According to ledgers they were indebted to landowners, but the reverse was true as well, financial problems, greed, or both had *hacendados* indebted to their peons.

Juan de Santiago, the captain of *tlaquehuales* on Don Manuel Cornejo's hacienda, sought legal protection before he became liable for the payment of 144 pesos and 4 reales.<sup>439</sup> Considering monthly wages, Santiago could have spent a minimum of three years paying off the debt, or a maximum of six years. Furthermore, everyday expenses were not included in this calculation. Thus, repayment would have taken more time. The court's verdict spared Santiago the injustice of paying a sum he did not owe. Cornejo was left with negative figures in his account books because the men fled.

During this time period it was common for landowners like Cornejo to operate an hacienda at a loss. *Hacendados* found themselves on the brink of financial disaster because they incurred debt with the Church, bankruptcy, familial conflicts, and property underwent frequent change of ownership.<sup>440</sup> Don Nicolás de Contreras, whose *gañanes* feared him but sued him anyway, was indebted to his workers. His books listed forty-six natives, but only a mere three had accounts that were up to date. Twenty-one workers

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<sup>439</sup> AHET 48-28: f.3.

<sup>440</sup> Nickel and Ponce Alcocer, eds., *Hacendados y trabajadores agrícolas ante las autoridades*, 13.

owed Contreras money while twenty-two were owed monies by the hacendado.<sup>441</sup> His financial dominance would have been heftier if the majority of his workforce had been indebted to him. The intimidation to which he subjected *gañanes* kept them under his control. However, although he managed his property with an iron fist the men had enough resentment to bring a lawsuit against him. If Contreras withheld salaries purposefully, he was taking a risk because natives turned to the courts to claim what they had earned.

In 1721 Licenciado don Juan de Almazán owned the hacienda of San Isidro which employed a total of fourteen natives. Six owed Almazán money whereas he was in arrears with the wages of eight others. The balance was tipped in the hacendado's favor because three of the six owed sizable sums. He owed them a little over 100 pesos while the amount surpassed 300 pesos for the workers. Juan Marcelo earned four pesos monthly and had to pay 111 pesos. Ramón Agustín made half of Juan's salary but had to pay off 168 pesos. Felipe de Santiago had the lowest debt of the three with fifty nine pesos and also earned two pesos a month.<sup>442</sup> Compared to other landowners, Almazán's ledgers could help him legally tie the men to his land.

In the winter of 1721 Miguel de Astorga appeared in court with his account books because he needed to answer to allegations made by his *gañanes*. A combination of abuse and delayed wages pushed the men to sue the hacendado. In January the court examined his accounts to find that of the thirty two men listed, he owed twenty one of them over 650 pesos. In other words, he was indebted to two thirds of his labor force. The other eleven owed de Astorga a total of 143 and a half pesos; none owed exorbitant

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<sup>441</sup> AHET 4-32: f.6.

<sup>442</sup> AHET 48-42: f.1.

amounts. He defended himself by saying that he had no money because he was "extremely" behind on harvesting because the gañanes left his crops out in the fields.<sup>443</sup> Neither the natives nor de Astorga specified the length of time served on the hacienda. Therefore, a time span for the accumulation of debt cannot be surmised. Officials decided that a week from his court appearance, de Astorga had to pay each gañan four pesos each. He was to pay the remaining sums after the men completed the harvest. They stayed on as the wages they were owed accumulated, however, the frustration came to a head and the men abandoned the hacienda at a critical moment, during a harvest. de Astorga owed them money so they endangered the source of his income in retaliation. The debt anchored natives to landowners, but they interrupted their service in order to file lawsuits. Thus, their actions had economic consequences for hacendados. The latter tried to limit the options a gañan might have had to obtain freedom or an amparo, but the reaction was the same, lawsuits to bring them under the rule of law.

The language of court cases shows the clout and status that landowners represented in colonial society. They wielded enormous influence because they owned, if not controlled, the land which is what society was based upon. If they did not own land, they possessed enough power and connections to rent significant tracts of land. The parties involved in litigation called them "amos," or owners, but natives rejected the misnomer; their actions demonstrated this. They used the term but their actions indicate underlying doubts about what "ownership" implied. What should have been uncontested authority or influence played out differently in tribunals. The other side of the coin is that perhaps because hacendados in fact exercised such power, people referred to them as

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<sup>443</sup> AHET 50-15: f.6.

"owners." But they had trouble getting automatic backing from the Juzgado General or the Real Audiencia. Hacendados had power, but the law enforced the belief that natives needed to be protected. Spaniards in positions of influence found that the courts carefully considered the interests of natives first and foremost.

The late eighteenth century was a time characterized by debt for hacendos as well as losses due to tribute. Originally meant to collect money for the crown, landowners bore the brunt of it on the eve of the nineteenth century. When the court granted an amparo to gañanes or tlaquhuales protecting them from someone who had already paid tribute on their behalf, it created an economic loss. At the same time, it sent the message to natives that tribute payments did not obligate them to stay on haciendas.

Manuel Laureano, Tomás José, and Gabriel José García sued don Joseph Antonio de Cos y Ceballos, a clergyman from the bishopric of Puebla because they rejected the status of gañanes which the defendant insisted was the correct classification for them.<sup>444</sup> To be designated as a gañan was a proverbial yoke that tied the men to that estate. What should have been an easy victory for the clergyman, who had convincing evidence for his argument, turned into a tangled affair of conflicting stories.

Joseph Antonio de Cos y Ceballos and his lawyer prepared a case with the aim of invalidating the plaintiffs' arguments several ways. He cited evidence that he could produce in the form of a document, a family feud with the alcalde mayor of Huejotzingo, and custom. First, he told the court that he had documented proof of a declaration of gañan status by Gabriel José and a Matías García. The former was one of the plaintiffs and father of Manuel Laureano. The latter was Tomás García's brother. Both had

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<sup>444</sup> Cuaderno 15 from the Archivo General de Indias, in Nickel and Ponce Alcocer, eds., *Hacendados y trabajadores agrícolas ante las autoridades*, 388.

confessed to being *gañanes* on the hacienda. According to Cos y Ceballos, the fact that those men had admitted their status was such meant, by default, that the other men involved in the lawsuit shared that status as well. By declaring themselves *gañanes*, it signified that they lived *and* worked there.<sup>445</sup> He challenged them to produce evidence which stated otherwise.

Second, Cos y Ceballos' defense cited an ulterior motive behind the three men's lawsuit. There had been a financial connection between the defendant's father, Lorenzo de Cos y Ceballos, and the *alcalde mayor* of Huejotzingo, but it had gone awry. He maintained that don Ambrosio Merino requested that his father serve as his guarantor of tributes. When his request was denied, Merino became a bitter enemy. In revenge, the *alcalde mayor* incited the natives to sue him.<sup>446</sup> After all, the legal action was detrimental to both father and son, one owned the land and the other needed the labor.

Cos y Ceballos was angry because he knew that Merino was personally acquainted with that status of the men suing him. The documents presented on his behalf contained *cartas de pago*, or receipts, on six different *fojas* that indicated payment of the *gañanes'* tributes. The official who requested payment was Merino and on other occasions don Manuel Francisco Prieto de la Concha, one of his *tenientes*. The person who remitted payment was none other than don Lorenzo de Cos y Ceballos.<sup>447</sup> *Hacendados* paid tribute with the implicit understanding that natives stayed. Their burden to the crown was taken away, but they owed their labor in exchange for that.

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<sup>445</sup> Ibid, 389.

<sup>446</sup> Ibid.

<sup>447</sup> Ibid, 390.



Merino knew that tribute was paid on behalf of the men. Therefore, he must have known that their status was permanent on the hacienda, not transitory.

Finally, Cos y Ceballos cited custom as evidence that the plaintiffs were *gañanes*. He objected to Tomas García's claim that for over twenty years he had served as a *tlaquehual* on the hacienda. The amount of time was correct, he conceded, however, he rejected the status that García claimed in his testimony. The hacendado presented proof of García's age using baptismal records in order to establish that for as long as he had lived, he had not labored on any other hacienda. In his arguments, it was clear that records of the Catholic sacrament did not establish "*vecindad y origen*," residence and origin, because indigenous women had the custom of abandoning the haciendas where their husbands were *gañanes* in favor of other pueblos. Andrés García and Agustina Díaz baptized their son on January 6, 1711.<sup>448</sup> He confirmed that the plaintiff was over twenty years of age and thus confirmed that García had served on haciendas for approximately that long. The lawsuit was filed in July 1755 which meant García was forty-four years of age. The defendant failed to prove how many of those years had been spent on his father's hacienda. Despite this missing information, he explained how natives became *gañanes*. If they remained on any given hacienda "for many years," they acquired said status by default. It was for the public good, *utilidad pública*, and for the benefit of the land that natives should reside on haciendas. The only reasons, Cos y Ceballos pointed out, why this could be contradicted was if hacendados mistreated natives or denied them wages. He had committed neither of those two offenses.

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<sup>448</sup> Ibid.

The hacendado appealed to colonial law that natives should not be idle. The court reiterated its stance on this: they should not be vagrants and without work. Nevertheless, the ruling stated that the gañanes should return to work *voluntarily*. They could choose another hacienda if they wanted. Three months later, in October 1755, the court declared that Cos y Ceballos had no grounds for his claims. If applicable, he was to pay any sums of money he owed them for the time they served on the hacienda. Once again, the court declared that the natives should seek work, but made no motion to order them back to his hacienda. Father and son had proof that tribute was paid for the men, but it was insufficient evidence.

Amparos awarded to natives since the sixteenth century stated clearly, and sometimes repetitively, that nothing should be done against their will nor should liberty be threatened. The language of those writs explicitly support the causes of the natives. As in the case of Cos y Ceballos, Don Joseph Manuel de Munibe seemed to have an airtight case of gañanes who were at fault, yet the court was not as receptive as he might have anticipated.

In the summer of 1781, Munibe was in the midst of overseeing a wheat harvest on his hacienda, San José Zacatepec. A day earlier at approximately five o'clock in the evening the plaintiff decided to check the progress of his workers with the harvest. What he saw motivated him to file a motion in court the next day. He found that all of the men who served as reapers were inebriated as well as Vicente López, the helper who oversaw the others. Munibe decided against a confrontation because of the state he found them in and also for fear that they would disrespect him. Therefore, utilizing "utmost prudence," he sought help from the court with hope that authorities called the natives to appear in

person.<sup>449</sup> But in the time that it took the hacendado to denounce their behavior, they "maliciously" fled. López was the only one left behind at the hacienda. He was asleep and Munibe had trouble waking him. His condition was such that López was incapable of appearing in court. Don Bartolomé Canellas, sergeant of the provincial militias, witnessed this. He was the official appointed by the court to accompany López back to the tribunal for questioning.

As the case unfolded, the hacendado's motives for seeking help immediately after discovering his drunken workers was apparent. The wheat harvest was affected by the reapers who were too drunk to perform the labor and second by the legal proceedings that resulted in the flight of said labor. Munibe adamantly argued for the return of the men because they wanted to opt out of service on his hacienda offering to pay "the amounts of pesos they owed" in exchange for not returning. Not only was it their obligation to finish the harvest, but his wheat, he firmly maintained, was exposed to "danger." The only menace he clearly stated was *granizos*, or hail. He vaguely described additional threats as "other accidents."

Munibe capitalized on how he was at an economic disadvantage because of negligence on the part of the natives. He was the wronged party in this case and he handled the case in a responsible way. Despite the "critical circumstances" of the case, the hacendado did not assert his authority. He did not take matters into his own hands, he argued. Instead, he went to report their appalling misconduct. In his interpretation of how events transpired, Munibe portrayed himself as a law abiding member of society. He had done his duty: reported the actions of the natives which went directly against

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<sup>449</sup> Cuaderno 16 from the Archivo General de Indias, in Nickel and Ponce Alcocer, eds., *Hacendados y trabajadores agrícolas ante las autoridades*, 408.

what colonial laws dictated. They had been idle and drunk. He wanted a court order that reinstated the natives on his hacienda to finish the jeopardized wheat harvest.

Munibe's arguments refuted the anticipated response from the court. Centuries of legal precedent demonstrated that verdicts were sympathetic to natives. Exploitation and abuse may have reigned when some of them returned to their towns from the trip to a tribunal in Mexico City, however, the official record showed that their freedom had been granted and protected. In practice two laws had to be interpreted differently according to the hacendado. Specifically those that dictated *buen tratamiento*, good treatment, and liberty should not be granted "so absolutely." According to him, officials wanted natives to be employed at all times; this conflicted with the idea that freedom was absolute. In other words, steady employment and freedom as the law defined it was mutually exclusive. The other law made an exception to the timetable of labor. Natives had the right to tend to their sown land. Munibe thought it was too lax because they "rented themselves out from hacienda to hacienda." Some had no sown land of their own deeming it unnecessary to leave their employment on those grounds. The court ruled mostly in his favor, but Munibe was responsible for the good treatment of natives and payment of salaries. Not following through on those conditions would abrogate the labor obligations that the defendants had to fulfill. Clearly, he believed that laws catered to natives. The testimony and arguments of hacendados frequently cited the natives' "maliciousness" as a problem they dealt with. It was the word of landowners against that of their labor and servants. The former exercised power, but the law protected natives. What Munibe and many others before him described as a character flaw was indigenous agency operating in that space of protection that the law gave them.

Towards the end of the eighteenth century the rate at which natives fled haciendas caused consternation in communities of landowners and merchants. The events in neighboring Puebla caused Tlaxcalan officials to congregate. For decades, there was a link between that region and Tlaxcala. The exchange of labor dated back to repartimiento duties. It was not uncommon for natives to have received assignments for construction projects in Puebla during the sixteenth and seventeenth centuries, particularly churches, and the trend continued. As the hacienda grew into the economic center of colonial society, Tlaxcalans also labored in Puebla in the capacity of tlaquehuales, gañanes, and peons.

From the point of view of those in control, the task at hand was harnessing the innate laziness of natives. If officials allowed idleness to reign, the consequences would have been disastrous. Production in New Spain would come to a standstill. According to officials, all cultivation of lands would stop, "reduced to weeds or uncultivated valleys."<sup>450</sup> The significance of native labor to Spain's empire was so great that the bishop of Puebla, Juan de Palafox y Mendoza, declared that without natives all of the Indies would cease to exist. The officials who gathered in 1782 agreed with his apocalyptic prediction.

The question was how to keep natives from the downward spiral of idleness. Landowners and officials found the solution in tribute. As subjects of the crown, it was one of the only requirements that could effectively tie natives to the land. Each paid tribute, but the practice of paying the amount of money was done by landowners. The amount owed depended on the official roll for any given hacienda. The rate at which

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<sup>450</sup> Cuaderno 14 from the Archivo General de Indias, in Nickel and Ponce Alcocer, eds., *Hacendados y trabajadores agrícolas ante las autoridades*, 333.

natives fled was alarming because hacendados paid tribute on behalf of labor. It was a loss if *gañanes* suddenly abandoned places where their tribute had already been paid. Legal rhetoric that valued the liberty and free will of native labor was a hurdle. The trick was to reconcile that fact with some aspect of the law that could legitimately force a workforce to stay.

Hacendados found what they needed in a *recopilación de leyes*, or compilation of laws, which they claimed did not conflict with *cédulas*. According to them, law number twelve, title three, book number six of the laws stated that "if after two years after the publication of this law they are voluntarily serving [on a farm] they should stay."<sup>451</sup> The interpretation of the law they wanted to enforce was that once natives had been on an hacienda for two years they should not be permitted to abandon it. This ensured that they were accounted for and that they paid tribute. The hacendados determined that "it is severely prohibited to separate themselves [from the haciendas] and gobernadores, judges, and justices were denied from giving license so they could go to another." The way the hacendados saw interpreted the laws, it counted that the natives chose a place to work and live voluntarily, out of their own free will, however, they were forced to remain there after the two year window of time. When the compilation of laws was written, the viceroy of Perú, Francisco de Toledo, specified that natives had to enjoy the liberty to completely choose a farm. The hacendados and merchants acknowledged it. But after the law had come into effect, after the two years, "they no longer had it [the freedom] to choose another destination."<sup>452</sup> Officials hoped to put this part of the law into practice so that natives could be accounted for and landowners would not pay tribute for nothing.

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<sup>451</sup> Ibid, 334.

<sup>452</sup> Ibid.

They touted the benefits for all parties involved and for society as a whole. Nevertheless, conflict on haciendas was reaching a boiling point as the Independence period neared.

Those who relied on native labor were dismayed that no reason seemed strong enough to stay permanently on haciendas. But in instances where *gañanes* lived on the land just as colonial authorities wanted, there was disobedience and violence. There was discontent and both natives and Spaniards acted on it. Hacendados reported more *tumultos*, or riots, than the previous centuries. Landowners cited a lack of respect as a motive for litigation. Also, natives acted together in groups against their "*amos*." It incited fear and calls for punishments in order to make examples of the perpetrators.

In January 1796 Don Joseph Antonio Tamariz y Aguayo, a retired captain and owner of an hacienda named Santiago within the jurisdiction of Tlaxcala, went to court over an incident that had occurred the month before. He fell ill and was recuperating in Los Ángeles when he decided that his *mayordomo*, Don Joseph Mariano Díaz, needed to hire more labor for the harvest. Díaz went to the nearby town of San Juan Ixtengo for weekly-paid labor, *indios semaneros*. Trouble ensued, according to the landowner, when the *mayordomo* directed the natives to pick the crop correctly and not leave unpicked ears of corn as they were doing when he arrived to supervise their labor. A rebellion against the *mayordomo* ensued and the workers left him nearly dead.<sup>453</sup> The *mayordomo*, a helper, Spanish *vecinos*, and six *gañanes* testified before the court reached a verdict over two weeks after the landowner filed the lawsuit.

The testimony of all witnesses, regardless of ethnicity or racial class, corroborated that violence occurred and that the *mayordomo* suffered an injury to his head when the

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<sup>453</sup> Isabel González Sánchez, *Haciendas, tumultos y trabajadores: Puebla-Tlaxcala, 1778-1798* (México: Instituto Nacional de Antropología e Historia, 1997), 83.

natives threw a stone at his forehead. The workers, who were Otomies, described a more detailed version of why they felt compelled to use force whereas the other witnesses emphasized the wrongdoing of the labor force. According to Díaz, several muleteers tipped him off about discord among the natives. Just as Tamariz y Aguayo described, the error he corrected among the natives was going back to pick corn they had left behind. Díaz scolded the workers and then realized that his helper had been hit with a rock. Before he knew it, he was the target of an assault with more rocks.

The testimonies diverged when the defendants related their side of the story. It was true that the mayordomo and his helper redirected their labor, but they added that there was corporal punishment involved, not only verbal warnings. According to the workers, after sun rise Díaz whipped them. At approximately two o'clock the men returned. This time they greeted them with verbal abuse. The helper said, "otomíes de mierda que no han hecho nada," shitty otomies have done nothing. When the whipping commenced again, the natives dropped the corn they had harvested and tried to flee. Before they ran away they witnessed how the men tied a worker, Antonio Esteban, to hit him with a stick. At this point in the testimony the throwing of rocks surfaced. The seven men who were arrested and Domingo Antonio, who was at large, hurt the men with the rocks. There was solidarity among the natives; they refused to name the person who hurt the men. "El mitote y la polvadera," the commotion and dust cloud, made it impossible to see who hit the mayordomo.

Tamariz y Aguayo's final statements to the court described the fear he felt because of the "continuous provocations" of the natives. He wanted swift resolution for the case, but he wanted the court to know that he lived in fear of the consequences of such



tumultos. The plaintiff's blatant omission of abuse demonstrated that landowners used any tactics and methods necessary to force natives to work. The treatment suffered shows self righteousness and perceived impunity, however, the law sided with natives most of the time. Colonial authorities complained about the nature of natives, but the law frowned upon that kind of mistreatment endured by the Otomi men. The court sentenced the men to receive "unos azotes," some lashes, but they would not serve a long prison term as it was detrimental to their families and the landowners who needed their labor. While this put natives back into the hands of abusive landowners, it was also true that the consequences for rebellion were not radically harsh.

Landowners lived on edge, fearing that conflict brewed among their labor. Don Juan García thought he had an especially recalcitrant group of *gañanes* on his hacienda named Virreyes located in San Juan de los Lagos, Puebla. His helper, Tomás Caballero, found himself testifying against twenty seven workers in 1779. In his testimony, he claimed that don García had warned him that the natives were "muy alzados," or very vain and that he should not neglect this fact.<sup>454</sup> As the events on February 5, 1779 demonstrated, Caballero took that advice to heart thus adjusting his reaction to natives based on it.

María Josefa Reyes Benavides Osorio filed a lawsuit on behalf of García and his wife, María Josefa Reyes, denouncing the riot caused by the *gañanes*. She witnessed when one of the men, Juan Felipe, raised his hand to hit the landowner's wife. The plaintiff was the widow of Captain don Ignacio Díaz de Córdova. The first official dispatched to begin collection of testimony reported finding the *hacendado* and all natives

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<sup>454</sup> Ibid, 69.

sleeping peacefully, with no indication of "rumor nor sign of any riot." Nevertheless, court officials would find out that beneath that facade there was animosity against authority and solidarity among workers.

The events leading to Juan Felipe's offense against Doña Josefa began with the assault of a *gañan* for disrespect and culminated in the ringing of a bell to summon natives to the main house. Once there, the hacendado and his relatives became afraid for their lives because the crowd pushed against the gate, threatening to open it. The initial dispute between Caballero and a *gañan* named Pedro García escalated. The detailed testimony of both the authority figures on the hacienda and the workers demonstrated how each navigated the power relations within a system that needed both parties to function.

The entire disagreement was rooted in what occurred in the kitchen of don García's house. At approximately eight to nine at night Caballero arrived from the fields. Pedro García entered the kitchen to ask the women in the kitchen for tortillas for Caballero. According to the native witnesses, García enraged the helper because he was too slow to follow a directive. On the other hand, Caballero and Joseph Francisco Virueña, the guard of the granary, both testified that the *gañan* received a directive but told the former to "go do it himself." All witnesses coincide in the fact that Caballero folded a whip in half and gave García some lashes. There was evidence of the corporal punishment; the official record stated that the *gañan* removed his cotton pants to show three injuries caused by a whip, one which opened his flesh.

The sense of unity among the natives caused others to come to García's defense. The first was Juan Antonio de los Santos who angrily asked Caballero if he was an

animal to deserve such a beating. He replied that García was a dog and threatened to beat him as well. Caballero grabbed De los Santos by the shirt twisting it in a manner that he began choking him with it. Felipe Diego Antonio also interfered and was tied up, but not before landing a punch on the helper's face. When don Juan García entered the scene Caballero had beaten a gañan and gotten into a fight with two others. Even the wives of the workers became involved. The hacendado kicked Ana María, wife of Felipe Diego Antonio, when she reported the altercation. The crowd dissipated when he drew a sword. Some natives fled the house while others were locked in. Antonio González, the captain of the gañanes, asked Doña Josefa why Felipe was being punished so harshly. She responded with a few slaps to his face for even asking. The widow's claims that a native had raised his hand to hurt the hacendado's corroborate because another gañan interfered when he saw one of his fellow workers slapped. Meanwhile, the workers gathered outside at the sound of the bell and because they knew that some of the natives were subjected to physical punishment inside the house. And hence the tumulto reported by María Josefa Reyes Benavides Osorio occurred.

The warnings Caballero received about the nature of the gañanes no doubt influenced his reaction to Pedro García and the others. In his testimony, he revealed that he had only been employed at Virreyes for four days. His employer had warned him to carry a sword instead of a whip in case the workers decided to disobey and rise against him as they had with previous helpers. He went further, if he cut the arms off of two or three natives, he would take responsibility. Caballero declared he had no intent of doing that. As a matter of fact, he did not plan on working as a helper for long. The gañanes

had not built any sort of rapport with Caballero while the latter anticipated insubordination.

Tensions, cruelty, and rebellion reared their heads with lawsuits such as these. However, economic need for both sides smoothed over the animosity. The hacendado decided against pursuing legal action; he wanted to avoid expenses for the hacienda and for the gañanes. As explained above, landowners treaded a fine line between ruin and breaking even financially. He needed them back on his land working. However, he had some conditions. He reserved the right to discipline them "moderately" for disobedience. For their part, the gañanes expressed the desire to go back to the hacienda they called home, saying they felt love for the place. They buried the hatchet, yet the conditions that had caused violence were still there, percolating below the surface.

Natives had a deep mistrust of the people who managed them and the sentiment was mutual. Manuel Montero was administrator of two haciendas in San Juan de los Lagos, Puebla. He filed a lawsuit because fifteen gañanes gathered with the intent of starting an uprising on one of the haciendas, San Miguel. He claimed the masterminds were the mayordomo, Pedro Sosa, and his son, Miguel Gerónimo. On January 30, 1780 Montero received a brief written message from his mayordomo. Later in his testimony Sosa admitted that he did write and send that piece of paper. Its content was the root of the misunderstanding that led Montero to go file a motion against his gañanes. His captain, Juan José, made him privy to an alleged complaint that workers were going to file against Montero with a commission of ex-Jesuits. Armed with that information, he filed the motion.

The testimony of the mayordomo, his son, and the workers did not corroborate Montero's. The only detail that did was the written message. Sosa testified that he wrote the message because gañanes grew concerned about the whereabouts of Juan José. Two of the captain's brothers worked at the hacienda. The first to explain what happened was Manuel Agustín. He admitted that he congregated with some of the workers because they wanted to know the whereabouts of his brother, but when no information was forthcoming, he agreed that they should head back to work. If by the next day he had no news of his brother, he would go to Puebla to look for him. He declared that the Sosa nor his son had ever incited them to rebel against Montero. The captain's other sibling was Agustín Rodríguez. His version of events was similar including the declaration that neither father nor son tried to provoke a tumulto.

The court ruled that it would not pursue the case because of "falta de testigos de razón," a lack of witness of reason. This was shorthand for Spaniards as authorities considered natives *gente sin razón*, people lacking reason. Since officials sympathized with Montero, they forbade gañanes from congregating for any purpose. When the hacendado saw that message, he feared the worst. Towards the late eighteenth century landowners were more likely to be suspicious of natives' behavior and also fear demonstrations of discontent.

By the beginning of the eighteenth century, the role of the cabildo in defending natives was much less apparent. Faced with the same level of exploitation, but in different forms since haciendas now shaped the social and economic landscape, laborers went to file lawsuits just as they had done before, but in greater numbers. Court cases

reveal how natives defended the rights they felt were theirs and how difficult it was for Spaniards to force them to stay on an hacienda.

## Conclusion

Tlaxcala is the smallest state in present day Mexico. The geographic territory it encompasses belies the significant role the region played in the history of Latin America. The thousands of allies that the pre Hispanic peoples of Tlaxcala provided the Spanish was a turning point in events followed by Christopher Columbus' contact with the New World. It is questionable whether Hernán Cortés and his original small army could have defeated the Mexica empire without Tlaxcalan soldiers. What Tlaxcala's role in the conquest meant and its implications are present throughout the city today. The motto "Cuna de la Nación," cradle of the nation, is inscribed on the license plates of cars. That shows the perception that the birthplace of modern Mexico was Tlaxcala, where two cultures met and formed a new identity, thus overshadowing the wars of Independence as the precursor to a national identity. The phrase seems to celebrate the outcome of Tlaxcala's role.

On the other side of the spectrum is the statue of Xicoténcatl II Axayacatl that overlooks the city. It is a tribute to the son of Xicoténcatl el viejo who was tlatoani of the altepetl of Tizatlán in 1519 when the Spanish arrived. When the Spanish army encountered the Tlaxcalans, there was no consensus among the tlatoque about whether or not they should form an alliance with Cortés. They decided to test their military strength by deceptively agreeing to peaceful talks with the Spanish while launching an attack against them.<sup>455</sup> The opposition to the Spanish was unsuccessful, however, his intent to resist is what he is remembered for. In this tribute, Tlaxcalans as allies is a role best

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<sup>455</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 219.

forgotten. Instead, it embellishes Xicoténcatl's courage to fight against the people who eventually colonized what would become Mexico.<sup>456</sup>

In 1519 the Spanish gained valuable allies in the Valley of Mexico in their fight to defeat the Mexica. Hernan Cortés and his men could not have known it then, but those reinforcements of thousands of native warriors would cost the crown dearly. The Europeans emerged as victors and received rewards for claiming land for their monarchs, but as the documentation of the colonial period shows, it came with a price.

The military prowess of the Spanish played a role in conquest as did other contributions of natives. The latter were the ones who knew the terrain and the other peoples who inhabited the land. According to Oudijk and Restall, there was a pre-conquest "political system of alliance building" that the Spanish took advantage of to defeat the Mexica.<sup>457</sup> Native leaders expected rewards in exchange for their help. This clarifies any misconceptions that different indigenous groups somehow represented a unified front that allies, such as the Tlaxcalans, betrayed by providing aid to the Spanish. Quite the contrary, they were different ethnic groups with political and economic interests of their own. In retrospect one can see how fateful the alliances with Cortés were for central Mexico and the Americas as a whole, but possible long term consequences did not figure into the mindset of natives.

Naturally, the nobility felt entitled to receive privileges in exchange for their alliance. The combination of this expectation based on pre-Hispanic customs and Spain's uncertainty about the classification of its new subjects opened a door for the indigenous

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<sup>456</sup> Ross Hassig, "Xicotencatl: Rethinking an Indigenous Mexican Hero," *Estudios de cultura náhuatl* 32 (2001): 32-41. According to Hassig, Xicotencatl's opposition to the Spanish was rooted in a power struggle within the four altepetl.

<sup>457</sup> Oudijk and Restall, "Mesoamerican Conquistadors in the Sixteenth Century," 44.



population. The king's decision to let them be free, as opposed to Africans who were enslaved, and to grant them protection under Spanish law were significant in the role of natives in colonial society. If conquest had been one-sided, individuals such as Cortés and his chronicler, Bernal Díaz del Castillo, would have enjoyed all the riches they felt entitled to. But freedom and protection, combined with access to the legal system, gave voice to natives.

The structure of colonial society facilitated the use of the legal system. The Spanish relied on the political organization of indigenous populations. For example, the *altepetl* and its constituent sub-units were used as the basis for colonialism, but the Spanish renamed them *cabeceras* and *sujetos*. Tribute collection and labor were pressing needs for the crown and the systems in place offered efficient ways to extract wealth with minimal chance of rebellion. However, an unintended effect was that cultural identity and autonomy survived far longer after the conquest than previously thought. The fact that indigenous society retained their political organization would later help them organize to file lawsuits against the demands that Spain's empire depended on.

Cabildos such as Tlaxcala's functioned throughout central Mexico. Their duties to oversee natives and to organize tribute, labor, and religious festivities occurred with minimal supervision at a local level. The indigenous cabildo, with its officials who occupied positions of leadership according to noble status as they had before the conquest, functioned day to day without interference of Spaniards. Even the cabildo meetings lacked supervision from the Spanish gobernador or others. Autonomy, paired with the legal right to resort to court to protest exploitation and abuses, gave the cabildo a crucial role as defenders of their community.

This study has examined labor, tribute, how natives used the legal system, and how the power and status of native government in Tlaxcala fit into this framework of conflicting interests. The nature of labor in Tlaxcala was coercive and exploitative. Even when natives assumed fulfilled their responsibilities of repartimiento, for instance, they found themselves in difficult situations in the hands of people who led them to other places where their labor represented personal gain. In the case of obrajes, so-called labor "contracts" that sweatshop owners drew up were ways to lure desperate or unsuspecting natives to perform labor for long periods of time. Even if a document was written as a contract, lawsuits show that macehuales could not leave if they wished, nor when the term of service was completed. In addition to being locked up, which was against royal laws, natives complained that they never saw the wages they had been promised. Intended as punishment for criminals, innocent natives ended up suffering in obrajes anyway.

Servicio personal was the type of labor that the clergy, Spanish farmers, and native officials frequently used for work ranging from agriculture to cooking. Those who relied heavily on this labor institution were Spanish farmers. It was a precursor to waged labor and debt peonage on haciendas later in the colonial period. Legal cases demonstrate the disruptions it caused in native life and how farmers eventually became a threat to entire families. First the cabildo represented natives' grievances and later when this was no longer the norm, individuals sued Spaniards on their own.

The history of labor and tribute bears a direct connection with the legal system. To examine the exploitation that natives endured does not undermine their agency. Rather, it shows how badly the odds were stacked against them and how they kept using

the legal system to enjoy the protection that the law claimed they had. Tlaxcalans had a long history of negotiating with the crown in order to obtain privileges they earned as allies. This tradition continued as its commoners fought against exploitation or excessive demands.

Surviving cabildo records and legal cases from the Real Audiencia and the Juzgado General de Indios relate a complex multi-faceted story. The cases inform us about how Spaniards and at times indigenous officials exploited the native population, but they also reveal who went to court on behalf of plaintiffs. At the micro level, native officials had to run a government efficiently for the king, which is why they could be at odds with the Spanish population who interfered with labor and the collection of tribute. But within a broader scope of colonial society, they held privileged positions compared to other natives. As leaders of Tlaxcalan society, the cabildo maintained autonomy despite the fact that they were no longer able to obtain exemptions from labor and tribute as they did after the conquest. Spaniards managed to obtain land near an abundant pool of labor, despite royal orders forbidding them to reside in Tlaxcala.<sup>458</sup> Nevertheless, officials engaged in litigation to counterattack the problems caused by this intrusion. They adapted to changes and modified their strategies to voice their interests and concerns. However, cabildo officials were not the only ones who had to adapt as time progressed.

Macehuales began to appear before the Real Audiencia and the Juzgado individually, and in larger numbers towards the mid-seventeenth century. Before this they had filed lawsuits in their name with the help of a procurador which indicated that they knew how to navigate the legal system. But the cabildo was still a force to reckon

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<sup>458</sup> Gibson, *Tlaxcala in the Sixteenth Century*, 80.

with, thus macehuales looked to their government for representation. Many cases during the first part of the sixteenth century opened with a statement in which the officials identified their positions and then said whom they were representing. When the effects of corruption and political factions within the cabildo deepened, there was a significant change towards individual litigation of macehuales.

When commoners began to file lawsuits frequently, Lockhart interpreted this process as the "disintegration of the altepetl."<sup>459</sup> The cabildo no longer defended commoners as they had at the beginning of the colonial period. But court cases and outcomes do not only tell a story of decline. In Tlaxcala, natives put to practice their knowledge of how to file a lawsuit and their legal representatives helped them construct convincing arguments. Cases from the late seventeenth and eighteenth centuries show the resilience of the native population. As plaintiffs they frustrated Spanish landowners and refused to abide by the laws that dictated the rules of their employment. Not even tribute payments represented a way to entice workers to remain on haciendas. Court testimony demonstrates how haciendas were a central part to native life, yet natives wanted to work and live there on their own terms. The legal system afforded them that opportunity to dictate the conditions of their labor.

The privileges that the crown granted Tlaxcala intricately tied legality to the colonial duties of the indigenous population. When the nobility visited the king to claim favors based on military assistance during the conquest, they succeeded in distinguishing themselves as loyal subjects. This set the tone for the negotiation that ensued between crown and subjects. Because the king acknowledged that Tlaxcalans had indeed been

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<sup>459</sup> James Lockhart, *Nahuas and Spaniards: Postconquest Central Mexican History and Philology* (Stanford: Stanford University Press, 1991), 42.

important in defeating the Mexica, the *cédulas* obtained thus gave them a precedent on which to base future negotiations. The thousands of cases filed over the next centuries demonstrate to what lengths Tlaxcalans went to defend the “rights” they had received.

During the eighteenth century the expansion of haciendas caused natives to defend themselves in court on an individual basis. Despite their lack of communal lands and the demand for native labor, *macehuales*, who became known as *gañanes* and *tlaquehuales*, they still resorted to litigation in order to denounce (and escape) bad treatment and to claim wages that indebted hacendados failed to pay them. *Gañanes* who lived on haciendas and did not flee complained even if they did not seek to abandon their labor. They refused to settle for harsh treatment and the fact that labor was scarce worked to their advantage. Spaniards watched their actions closely for any signs of rebellion.

The legal system was a double-edged sword for natives, but it was a tool that helped them have some control over their lives. It had the effect of acculturation, but it also had the effect of letting natives gain a sense that they were right in not accepting abuse. They believed in the concept of freedom and rights that the legal rhetoric used. In modern-day Latin America the remnants of indigenous culture persist. The cultural continuity that the New Philology has brought to the fore is ever present. Perhaps the autonomy and sense of individual rights that natives exercised in a court of law especially over issues of labor, tribute, and land, played a role in helping that culture survive as long as it has.

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