

**THE ENCOMIENDA AND THE OPTIMIZING IMPERIALIST:
AN INTERPRETATION OF SPANISH IMPERIALISM IN THE AMERICAS***

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Introduction

The encomienda evolved as the pervasive institution for subjecting and exploiting conquered Indian populations during the Spanish colonization of the Americas. While most scholars who have studied the period of Spanish colonization of the Americas have pointed out the destructive consequences of the encomienda, none have been able to offer a satisfactory, rational explanation of the institution, including why the Spanish Crown persisted in requiring its use in every new colonial venture for a period of more than two centuries.¹ This paper presents an explanation of the encomienda that has not appeared in the literature and yet we believe gives a better understanding of the insights of historians who have studied this period. Our central argument is that the encomienda was an essential part of an optimizing imperial organization that served the wealth-maximizing interests of the Spanish Crown better than alternative institutions, given the circumstances that the Spanish Crown faced in acquiring and controlling its distant colonial empire in the Americas.

The encomienda was a royal grant that permitted the grantee (encomendero) to receive tribute from Indians comprising the encomienda. The ownership right to an encomienda was usually for a limited time, termed a temporary encomienda, and was nontransferable. In addition, an encomendero was not responsible for the condition and size of his encomienda when the grant expired. Encomenderos were obliged to provide for the protection and religious welfare of Indians, features considered by historians to be essential characteristics of the institution. Vacated or expired encomiendas were either reassigned or placed under the control of Crown officials as a corregimiento with tribute paid to the Crown treasury.

Prior to the discovery of the New World, the encomienda had been used in Spain to reward military leaders for contributions in conquering areas from the Moors.² The encomienda had also been granted as rewards for participation in the conquest of the Canary Islands, which began in 1479. In the Americas, typically, Spanish conquistadors were initially assigned villages of Indians under encomienda for participation in conquests. From the time it was introduced in the Antilles, the temporary encomienda was the subject of strong criticism from both Church officials and the Indians, as well as the encomenderos themselves who favored making the ownership of encomiendas perpetual. While the Crown waivered in support of the encomienda at different points in time, it always supported the introduction of the institution in the beginning of each colonial venture.

The apparent irresolution of the Crown in supporting the encomienda has led to the following explanation of this institution: Since the institution, and variants of it, existed in Spain prior to the conquest of the New World, it is argued that the institution was simply grafted to the Americas.³ But the conquistadors misused their power in the colonies, and so the Crown ultimately removed this source of power from the conquistadors, as in fact it did.⁴ In this explanation, events in the Americas are assumed to have followed the same historical forces that had previously occurred in Spain: a process of enlightenment and centralization of power in the Crown.⁵

Nevertheless, historians have questioned the aims of the Crown in supporting the encomienda over so long a period. Since the encomienda grants had the stated aim of protecting the welfare of the Indians, it is difficult to understand its continuance during the entire period (1501-1786), given the incentives of encomenderos, and thus, the institution's contribution to the decline of the Indian populations.⁶ Most historians⁷

have viewed the Crown as inconsistent, aiming to protect the native Indians while at the same time yielding to the short-term interests of the Spanish conquistadors and the Crown's own financial demands. No one seems to doubt the short-term interest of the Crown in preserving the Indian populations⁸ and in restricting, in the long run, the political and economic power of the encomenderos.

Our analysis suggests that placing the Indians in encomienda increased the wealth of the Crown precisely because (1) it encouraged the destruction of the Indian populations and, furthermore, (2) the subsequent regulations introduced by the Crown to modify the incentives created by the institution and finally the replacement of the institution by particular taxes (the mita system) are also consistent with that wealth-maximizing behavior. In our view, it was in the interest of the Crown to encourage the transformation of the human capital of the Indians into other forms of capital at a faster rate than would have occurred under a system of perpetual encomiendas (or slavery) and lump-sum taxes.

I. The Institutional Background

With the exceptions of Columbus, Magellan and Diego de Solis, all Spanish colonial ventures in the Americas were privately financed and the Spanish Crown did not utilize its military forces in conquests. Each venture was organized by a person (principal conquistador) who had obtained the consent of the Crown to conquer and colonize a particular area.⁹ The principal conquistador acted as a promoter of conquest by forming a military expedition. The participants in the expedition generally financed the costs of the venture.

Along with the exclusive right to conquer a given area, the Crown granted a principal conquistador the power to assign groups of Indians in encomienda.¹⁰ Usually, encomiendas were initially granted to major participants in a conquest as compensation and reward for their military services. An encomienda could not be sold, mortgaged, or borrowed, and the relocation of an encomienda required a Crown directive. The Crown was to receive a share of the spoils, designated as the Royal Fifth.¹¹

In return for the right to collect tribute from the Indians in his encomienda, an encomendero was obligated to provide for the spiritual and temporal welfare of his Indians and, in addition, was required to provide a certain amount of military forces (men, arms, and horses) which could be summoned by local authorities to suppress Indian rebellions within the colony as well as to have against external threats. The composition of the tribute payment between the services of Indian labor and agricultural outputs was usually decided through bargaining between each encomendero and the respective Indian chief.

After the initial assignment of temporary encomiendas (usually from three to five years) during the conquest stage in each colony, the ownership of encomiendas was reassigned for a period of "two lives," permitting one intergenerational transfer to a direct descendant, though some variations were observed between different regions. If, for any reason, an encomienda became "vacant," the Crown authority for the respective colony could reassign the encomienda with the consent of the Crown, and the rules of inheritance would operate again.

In each colonial episode there was a similar transformation of the encomienda before its eventual dissolution. First, the Crown attempted to regulate the types of labor services (the so-called "personal" services)

that the Indians could provide under tribute obligations (such as work in mines and factories, and in transportation activities) and ultimately prohibited the use of Indians for the provision of personal services. It was generally recognized that certain of these personal service activities contributed greatly to the destruction of Indians.¹² The Crown also imposed regulations on the amount of tribute that encomenderos could collect by shifting from a system of lump-sum taxation for whole villages to a system of uniform head taxes. In addition, the Crown restricted the reassignment of encomiendas which increasingly favored the transfer of vacated encomiendas to the control of Crown authorities (the corregidores). The success of these restrictions depended upon local conditions, with success coming first in Mexico but much later in Peru, Chile and other colonies.

The final dissolution of the encomienda took two forms: (1) in the Antilles most natives were given complete freedom from tribute obligations when their numbers had diminished so drastically that further taxation was considered inimical; (2) on the continent, the encomienda grants generally reverted to the Crown or occasionally became rights to annuities.

In addition to the Indians in the encomiendas and corregimientos, some Indians served only the local clergy or the Indian chiefs. Those Indians who served church officials and Indian chiefs were ultimately brought under the taxing authority of the Crown. Finally, many Indians and Negroes were owned as slaves. The Indian slaves had been captured either in war or in raiding expeditions to unconquered territory, or had been received as part of tribute or purchased from Indian chiefs; the Negroes had been purchased from African slave traders. The Indian slaves were eventually freed by the Crown. Both slaves and free labor of whatever origin supplied the so-called personal services when Indians in encomienda were prohibited from providing these services.

II. The Encomienda's Incentive System

It will be useful to distinguish the temporary encomienda as an ownership arrangement from what is usually understood to be slavery. A person who was assigned a group of Indians under temporary encomienda had the right to collect tribute from the Indians for a limited time (usually three years for the initial assignment), but was prohibited from transferring this interest to another person. Initially, encomenderos were unconstrained by the Crown in establishing tributary obligations which were specified as payable in outputs and labor services. In addition, an encomendero was not responsible for the condition of the Indians in his encomienda at the time his ownership terminated. In effect, the initial recipients of encomiendas were given unrestricted use of groups of Indians under a short-term leasehold contract without provision for economic depreciation. When one's right over an encomienda expired, it was reassigned by a representative of the Crown.

For our purposes the important distinction between the encomienda and slavery is that under an encomienda contract a person has a temporary claim to an unregulated share of the outputs from a stock of human capital and there is no enforceable transferability of this interest; whereas for slavery an owner has a legally exchangeable right to an unregulated share of output from the human capital of slaves for life (and usually of the descendants of the slaves). An additional constraint under the encomienda was that locations of the encomiendas were fixed, and could be relocated only by obtaining a Crown directive. It will not be surprising that the Crown encouraged officials to initially locate encomiendas in the proximity of mines.

Given an encomendero's limited tenure to use the initial stock of human capital, there is a greater incentive to transform the human capital of Indians into other forms of wealth (of which ownership was both longer and transferable) than under slavery. For example, if the forced provision of transportation services by Indian carriers contributes to a higher death rate, or a diminishing of their lifetimes, an encomendero could be transforming the human capital of the Indians into an increase in the value of certain commodities by changing the location of those commodities. If the destruction of human capital does occur, the individual who is assigned the encomienda in the future will receive a smaller stock of human capital. Thus, the gain to the initial encomendero is a distributional gain since there is a corresponding loss to the future encomendero. In the case of slavery, the transformation of human capital into other forms of capital will be borne by the slave owner as a decrease in the future value of the slaves. However, if the successor to an encomienda were pre-assigned and there were costless contracting, then the incentives under the encomienda and slavery would be the same, since the future encomendero would contract for the behavior of the initial encomendero.

Furthermore, under costless contracting and competition among individuals seeking to obtain unassigned encomiendas, the initial encomendero would face the same incentives as under slavery if the authority who reassigns encomiendas contracted with (or imposed punishments upon) encomenderos and accepted contingent payments from those desiring a vacated encomienda. Since the amount one would be willing to pay to obtain a particular encomienda depends upon the quantity of human capital, and since the initial encomendero is able to affect the quantity of human capital by decisions regarding the amount and form of the tribute, there would exist a

basis for the assigning authority to constrain the behavior of the initial encomendero. The constrained behavior of the encomendero would thus jointly maximize the wealth of the assigning authority and the encomendero, and would be the same behavior that would maximize the wealth of the owner of the same quantity of human capital under slavery (assuming the relocation of human capital under slavery has the same restrictions as under encomienda). Hence, in this hypothetical case, the Spanish Crown would maximize its wealth by selling the right to be the Crown's representative to assign vacated encomiendas, and in addition, the Crown must not prohibit the bribing of these officials.¹³

The above discussion implies that for the encomienda and slavery to imply different allocational incentives, contracting costs must prevent the Crown representative responsible for reassigning vacated encomiendas from contracting with encomenderos, or prevent the representative from obtaining the full value of an encomienda through bribes. In the absence of contracting, since an encomendero was not responsible for the amount or condition of the human capital in his encomienda at its termination, more transforming of human (subsistence) capital into other forms of capital would occur than under slavery.

The destruction of the Indian populations under the Spanish encomienda system in the Americas is generally accepted as a fact by historians of the period. This suggests that it was either too costly to make the kinds of contracts that would sufficiently alter the incentives for encomenderos or that it was costly to compensate the Crown representative to obtain a vacated encomienda. Another possibility would be the uncertainty of the duration of the institution itself, and the expectation that encomenderos would not be compensated for their encomiendas if the institution were

abolished, as was the case in the Antilles. Hence, at first sight it appears that the Spanish Crown could have increased its wealth from its colonial empire by allowing slavery (or perpetual encomiendas) and imposing lump-sum taxes. The behavior of the Spanish Crown in supporting the institution of encomienda is puzzling when we note that the conquistadors requested, in every colonial episode, that the Crown allow the enslavement of Indians or at least that the encomiendas be made perpetual (and offered substantial payments to the Crown in some cases), and the Crown refused these requests each time.

III. An Optimizing Imperial Organization

In this section we present an interpretation of the Spanish Crown's colonial policies regarding its American territories assuming the Crown's objective was to maximize its wealth by establishing a colonial organization that would ensure the efficient acquisition, control and exploitation of capital in the Americas.¹⁴ Our central thesis is that the encomienda was an important part of such a wealth-maximizing colonial organization given the particular circumstances that confronted the Spanish in the Americas during the sixteenth and seventeenth centuries. If this interpretation is correct, the extent to which the colonial policies of the Crown served to efficiently increase its wealth is far greater than has usually been recognized.

If the Crown behaved as a wealth-maximizing imperialist, optimizing colonial policies would have efficiently incorporated the Crown's American territorial claims into its tax base and the colonial capital stock would have been subjected to a tax system which maximized the present value of tax revenues net of colonial administration costs. Colonial administration activities include tax collection, maintaining control of its colonies

(typically defense), and preventing various activities in colonies that would have reduced the Crown's tax revenues. Whether a colonial possession was lost to another military power or became independent through rebellion would have been irrelevant to the Crown, since its tax base is reduced equally in either case.

The Spanish Crown's claim to territorial sovereignty in the Americas rested upon the deterrent effect of its military forces upon other European powers. Since the Crown organized the acquisition of its American colonies by assigning to principal conquistadors an ownership interest in the spoils of conquest, with the Royal Fifth going to the Crown, the Crown's participation was limited to maintaining an overall commitment to punish unauthorized transgressions, thus reducing the cost to a principal conquistador of controlling conquered areas. A person who obtained the Crown's consent to organize conquest activities within a specific area acted as a promoter of conquest, enlisting soldiers and arranging financing for the conquest venture(s). Thus, the contractual arrangement imposed by the Crown established a joint venture in which a principal conquistador (and the subordinate participants in the conquest venture) incurred the costs of conquest, while sharing the returns with the Crown. The characteristics of this joint venture arrangement describe what is familiar in agriculture as sharecropping. By analogy, the Crown was the landlord, while the conquistadors were equivalent to sharecroppers.

From the viewpoint of the Crown, a rational contractual commitment for controlling the activities of conquistadors would have depended upon the information structure regarding conquest opportunities, the observability of the actions of colonial military by the Crown, and the preferences of the Crown relative to its conquistadors toward risk bearing. Except for

informational differences regarding conquest opportunities and the Crown's lack of perfect observability of the behavior of its distant colonial military, the optimal contract would have depended upon the degree of risk faced by individual conquistadors relative to the Crown. It is plausible that a conquistador would be subject to greater risk than the Crown,¹⁵ so that it would be rational for the Crown to employ conquistadors under a salary contract.¹⁶ It is plausible, however, that conquistadors possessed superior information regarding conquest opportunities and that the observability of conquistadors' activities by the Crown would have been very costly. Therefore, given the asymmetry in information and the high cost of monitoring conquistadors' activities by the Crown, it would have been rational for the Crown to impose all the costs of conquest upon the conquistadors and share the detectable returns. Riskiness to conquistadors would have made it irrational for the Crown to sell off conquest rights for a lump-sum payment and not share in the returns, assuming the returns are sufficiently detectable.

Under the above assumptions, an efficient Crown policy for the subjection of conquered Indian populations would be to allow a conquistador to impose either slavery or a transferable, perpetual encomienda over Indians. It should be noted that wealth-maximizing behavior under either institution may be consistent with the transformation of the subsistence human capital of Indians into other captureable forms of capital, and thus, the destruction of Indians.

While the temporary encomienda is not part of an efficient incentive system within the environment we have been discussing, we can explain certain constraints which were actually imposed upon encomenderos by assuming that the internal control of Indian populations (preventing Indian

rebellions) is not costless. Specifically, we assume that to collect a given amount of tribute from a group of Indians, one must produce sufficient military control to appropriate the specified payment without a rebellion. The military control can be realistically characterized as having a credible commitment to punish non-paying Indians by more than the Indians were obliged to pay.

If we assume that it is prohibitively costly for two or more groups of Indians to coordinate their actions in a general rebellion, then a given capability to impose punishments can be used to back several punishment commitments simultaneously if it can be easily shifted to impose punishments upon each of several groups of Indians. While a given aggregate punishment capability is not a collective good since it cannot be used to punish several groups of Indians simultaneously, it is possible to use a given punishment capability to produce joint benefits in backing several punishment commitments concurrently. If there is a relatively low cost of introducing restrictions that effectively separate groups of Indians and prevent communication, and thus coordinating a rebellion, it is possible for an encomendero to reduce his own cost of punishment capability by contracting with other encomenderos to act under a mutual assistance agreement. It is plausible that these contracting costs and bargaining problems were, in fact, quite severe given the large number of encomenderos, and locational monopolies (possibly due to higher costs of moving a military a long distance).

If, instead, the Crown requires each owner of Indians to produce a given minimum level of punishment capability and places the aggregate punishment capability for each colony under the control of the principal conquistador (or an authority of the Crown), then the contracting costs incurred under a voluntary solution would be avoided. The reduction in

contracting costs would increase the net benefits of owning Indians, thus increasing the payment to the Crown for the right of conquest. In addition, it would be rational for the Crown to require the provision of a punishment capability from each encomendero in accord with the number of Indians.

As stated earlier, each encomendero was in fact required to produce a specified military capability composed of armed militia and horses, which was subject to the control of Crown authorities in the event of Indian uprisings or external threats. The required military capability varied directly with the size of his encomienda. The encomiendas could be relocated with the consent of the Crown. In addition, the Crown restricted the movement of Indians and prohibited ownership of arms and horses by Indians, policies which reduced the overall military cost of internal control. To the extent that the activities of the Church imposed discipline upon the Indians, it too would have reduced the military costs of social control. There is a rational basis for each of these Crown policies under the assumptions of the analysis above, independent of the temporary encomienda, which, cannot, however be rationalized within the environment we have been discussing. Since these restrictions and obligations upon encomenderos would have been rational Crown policies under other institutions, these policies cannot be considered unique characteristics of the encomienda system.

If the Crown faced the additional problem of defending its colonial possessions from potential aggressors, an additional tax (or equivalent institution) which discriminates against the accumulation of colonial capital coveted by rival military powers is required to provide efficient incentives for the owners of colonial capital.¹⁷ Assuming that the profit to a military rival from expropriating all or part of Spain's colonial empire depends upon the Crown's defenses and the amount of coveted colonial

capital (determined by the conquistadors), an increase in coveted colonial capital imposes a higher defense cost upon the Crown. Thus, by taxing colonial capital at a rate equal to the incremental cost of defending a unit larger capital stock, the Crown can create efficient incentives for both the acquisition and transformation of colonial capital. For example, an owner of enslaved Indians might reduce his taxes by transforming part of his Indians into another form of capital (or consumption goods) that is less costly to protect or less coveted and therefore taxed at a lower rate. Thus, it may pay a slaveholder, for example, to transform some of his slaves into products that can be easily moved to where the Crown has relatively lower defense costs and so taxes capital at a lower rate. This kind of capital tax system reduces the Crown's overall defense costs by reducing the amount of defense relevant coveted capital in its colonies.

The cost of implementing such a system of efficient capital taxes could be reduced by an alternative institution that had the same allocational incentives. Combining the temporary encomienda with a system of colonial export taxes could be capable of achieving the optimal capital tax incentives.

The temporary encomienda can now be rationalized as an efficient, wealth-maximizing institution for the Spanish Crown if the cost of defending additional capital in its colonies was higher than defending it in Spain. By encouraging the more rapid transformation of colonial wealth into outputs that could be either consumed or transported to Spain where the Crown had a lower defense cost, the temporary encomienda yielded (approximately) the same solution as would have occurred under a system of efficient capital taxes. Since the incentives facing an encomendero depended both upon their remaining tenure and on the restrictions limiting the tribute obligations they could impose upon Indians, the Crown could control the incentive

structure under the encomienda to achieve roughly equivalent incentives as under a system of efficient taxes. While some transfer of product from the colonies to Spain would have occurred under other institutions, the encomienda system encouraged higher rates of output and greater exports to Spain during the initial stages of colonization.

Having introduced a rational basis for the imposition of the temporary encomienda, we now extend the analysis to explain the timing of the transformation of the encomienda in each colonial episode. In particular, if the Crown faced increasing costs of short-lived defenses of the colonial capital stock, then the hypothetical, efficient tax rate on colonial capital would decrease as the colonial capital stock declined. The efficient equivalent of a reduction could be obtained by modifying the encomienda grants as Indian populations declined to lengthen the tenure, and to impose restrictions upon the use of Indians in activities especially harmful to their lives and to limit the composition and amount of the tribute (that restrained the Indians consumption). That is, by altering the tenure of ownership and the amount and composition of tribute, the Crown could alter the incentives of encomenderos to convert the human capital of Indians into outputs.

The assumption of increasing defense costs in the short-run would follow if, in order to establish a credible commitment to defend an acquisition of colonial capital, the Crown would have to shift the deployment of its overall naval capability, thus reducing its commitment capability elsewhere. As an empirical matter, it was the overhead investments in port fortifications that represented very high overhead costs that would have reduced the marginal cost of defense. It was not until after 1555 that the Crown undertook the investments in fortified ports (Havana, Cartagena, and San Juan) and created a flotilla for the defense of American waters.

IV. The Church and the Encomienda System

While the preceding sections assumed that a central authority had the ability to impose punishments sufficient to achieve a given incentive structure, and to actually impose a given incentive structure, that would require a central authority to have the ability to detect punishable violations by colonial subjects. Thus, to insure that colonial subordinates face the optimal (from the viewpoint of the central authority) incentives implied under the imperial organization described above, a central authority must monitor the conditions in each colonial possession. Our purpose in this section is to expound the hypothesis that the Spanish Crown employed the colonial Church organizations, in addition to its own official representatives, as monitors of the conditions in its colonial possessions. Furthermore, the Crown granted economic interests to the colonial Church organizations so that the wealth of the Church depended inversely upon the wealth of the encomenderos. The only recourse for Church officials was to appeal to the Crown to impose additional restrictions upon the behaviors of encomenderos.

Even if the bases for the economic conflicts between Church officials and encomenderos were created by accident, these conflicts served the interests of the Crown since the Church officials continually reported the conditions in the colonies in an attempt to gain the support of the Crown for additional restrictions on encomenderos. The ecclesiastical grants made by the Crown also created additional conflicts among the Church organizations which can be explained as a method of verifying the information received by the Crown.¹⁸ Utilizing the clergy to monitor conditions in a colony was especially useful in the period before the Crown was able to establish its own bureaucratic organization to do the monitoring. Finally,

since our previous analysis implies that the encomienda be modified and eventually abolished for the Crown to maximize its wealth from its colonies, the monitoring in colonial possessions by the clergy provided information which the Crown had to know to efficiently alter the incentives faced by colonial subordinates.

Before analyzing the economic conflicts between Church officials and encomenderos and how these conflicts served the interests of the Crown, we briefly discuss the extent to which the Spanish Crown controlled the Church in the Americas. Immediately following the discovery of the Americas, the Crown obtained Papal concessions (1493, 1501) granting control over the ecclesiastical tithes in the Americas to the Crown; in return, the Crown assumed the responsibility for the operation of the Church and the conversion of the Indians. In 1508, a further Papal concession assigned to the Spanish Crown "in perpetuity the exclusive right to found cathedral and parish churches, mission stations, monasteries and hospitals, and to submit, in accordance with canon law, the names of candidates for ecclesiastical appointments and benefices, from those of lowest ranks to bishops and archbishops" (Gongora, 1975: 119-20). In addition, the Crown was able to extend its control over the distribution of tithe revenues to non-ecclesiastical purposes. Under the Agreement of Burgos (1512), "tithes were to be paid on agricultural and livestock products, not on ore production; half of this revenue was to go to the bishops and cathedral chapters; the other half was to be divided, in fractions of one-ninth, between the upkeep of the fabric of churches, the hospitals, the clergy with the cure of souls, whereas two ninths went to the Royal Treasury" (Gongora, 1975: 120). In this way, the Spanish Crown obtained direct and absolute control over the Church organizations in the Americas in all non-religious matters.

One basis for the strong opposition of the Church to the encomienda system is that the Church was morally and ethically disturbed by the encomenderos' treatment of their Indian subjects. Furthermore, while Church officials expressed opposition to the encomienda using moral and ethical arguments, one should be aware that these arguments were also consistent with the economic interests of the Church.

Under the tithe structure imposed by the Crown,¹⁹ the abolition of the encomienda system would have increased the wealth of the Church. Specifically, Indians under encomienda were generally exempted from the tithe, while the tribute collected by encomenderos in the form of agricultural outputs was subject to this tithe, which consisted of one tenth of certain agricultural outputs. Therefore, if the outputs of the Indians under encomienda had been subjected to the tithe directly, the income of the Church would have risen. This can be demonstrated in a simple example. If an encomienda community's total output were the equivalent of 10,000 gold pieces in agricultural outputs, and if it paid the equivalent of 5,000 gold pieces in tribute to the encomendero, the Church was entitled to receive 10 percent or 500 gold pieces from the encomendero. But if the total output of the community (rather than just the encomendero's share) had been subject to the tithe directly, the Church would have received 1,000 gold pieces. Thus, the economic interests of the Church were in direct opposition to the maintenance of the encomienda system. The Church officials attempted to influence the Crown to abolish the encomienda by reporting the destructive consequences of the institution as well as any behaviors by encomenderos that might be in opposition to the general interests of the Crown. These quite elaborate reports gave valuable information regarding changes in the Indian populations which the Crown could have used in timing the imposition

of restrictions upon encomendero.

In a somewhat more subtle way encomenderos could increase their wealth at the expense of the Church, because the imposition of the tithe on encomenderos took the form of a specific ad valorem tax (on specific goods) instead of a uniform ad valorem tax on all output.²⁰ Since the tithe applied to only the tribute that was collected in the form of agricultural outputs, an encomendero could reduce his tithe obligations by demanding personal services from Indians rather than agricultural outputs in payment of the tribute. This would reduce the amount of the tithable tribute, reducing the income of the Church. For example, if an encomendero employed some of his subjects in the construction of buildings to discharge their tribute obligations, neither the services of the Indians nor the buildings were subject to the tithe, while the tithable portion of the tribute was reduced. The Church officials strongly opposed the encomenderos' use of Indians in the production of non-agricultural outputs.

It can also be argued that the collection of tribute from the Indians in the form of non-agricultural outputs (personal services) substantially reduced the future tithe revenues of the Church. The reason is that encomenderos could more easily transform human capital into other forms of capital by employing Indians in non-agricultural activities such as mining, construction, transportation, etc. Thus, an encomendero could increase his wealth by converting the human capital of his Indians into a non-taxable asset. Meanwhile, the wealth of the Church had been reduced because the decrease in Indian populations reduced agricultural outputs, and thus, tribute revenues.

Our analysis can be elaborated by examining cases in which encomenderos employed their subjects in mining and the production of metals. Whereas the

Crown received a share of the output of the mines (which share termed the Royal Fifth), the Church would suffer a loss in terms of foregone agriculture output and tithable tribute. Hence, the opposition of Church officials to the use of Indians for non-agricultural purposes, or personal services, can in part be explained as an attempt to reduce tax-avoidance activities by the encomenderos.

It should be recalled that slaves and free laborers, whose services were not subject to tithing, were the main substitutes for encomienda labor in the mines and for other personal services. If Church officials had been concerned only with the abuses imposed through personal services, it would have objected to both the encomienda and slavery. As it turned out, Father Las Casas, the great defender of "Indian rights," was the first one to suggest the importation of African slaves and their substitution in non-agricultural activities for Indians under encomienda. Even if this was suggested for humanitarian reasons, one must also realize that the suggestion served the economic interests of the Church.

Given the theory which we developed in the preceding section, the opposition of the Spanish Crown for employment of Indians under encomienda for personal services is not difficult to understand. Personal services were generally permitted in the early stages of each colonial venture; with time, the Crown would impose regulations that required an encomendero to pay compensation for these services and finally, we are told, the use of Indians under encomienda for unpaid personal services would be abolished altogether. There is at least one Crown ordinance which states that the income received from these personal services should be taxed by the local authorities,²¹ but we do not know whether such an ordinance became operative. In Chile, the evidence indicates that the payments to Indians in encomienda were

substantial, but these payments accrued to whole villages and were administered by Crown officials (Jara, 1969: 37).

The abolition of personal services seems to be a legal myth. While it is true that the Indians would ultimately stop serving their encomenderos, they instead served the Crown when the Crown acquired greater control over a colonial possession, forced labor systems under the control of Crown officials were introduced. Both Crown and Church officials could employ labor which had previously been controlled by encomenderos. The forced labor systems of Mexico, Peru and other colonies have to be interpreted as more efficient methods of taxing personal services for the benefit of the Crown.

V. Historical Review

Traditionally, the history of the encomienda has been divided into two periods: the Caribbean and the Continental stages. The division is not analytically useful. While the conquest and colonization of Mexico gave new life to a dying institution, what needs emphasizing is that each new colonial venture created the circumstances for the rational introduction of the encomienda. The institution then followed a similar pattern of development in each episode.

For the Mexican case, Simpson has argued that the encomienda was "tamed" during the second half of the Sixteenth century; at this time a paternalistic relationship developed between encomenderos and their charges, tribute was regulated by Crown officials; most importantly, personal services to encomenderos were restricted and finally eliminated. The same cannot be said for other colonies. Personal services to encomenderos ceased to be important in Mexico at a time when they were still important in Peru and Chile, and were becoming important in Venezuela, Paraguay and the Plate

region.²² "As late as 1600, Comayagua, Nicaragua and Costa Rica (all subject to the Audiencia of Guatemala), Venezuela (subject to that of Santo Domingo), Trujillo, La Grita, Pamplona, parts of Tunja and other districts of the Audiencia of Santa Fe de Bogota, Popayan and Salinas (subject to the Audiencia of Quito), and the governorships of Santa Cruz de la Sierra (Paraguay), Tucuman (subject to Charcas) and Chile (subject to Lima), all still maintained the system of the *encomienda* based on personal services, according to the report of Fray Miguel de Agia" (Gongora, 1975: 141-42).

The Venezuelan and Chilean cases are particularly telling. According to Arcila Farias (1957: 287), *encomiendas* were first established in Venezuela in 1545, and personal services continued to be required until 1687. As late as 1591, the King of Spain issued orders that personal services be tolerated in Venezuela (Arcila Farias (1957: 215-16); since *encomiendas* of personal services exclusively existed in Venezuela in the Seventeenth century, it should be clear that the Crown followed different policies for different regions. In Chile, the end of personal services occurs in 1789 (Faliu Cruz, 1941: 240). There, the Crown had even reversed its position on the enslavement of warring Indians (which had been prohibited in the Sixteenth century). As late as 1625 the Crown issued orders permitting the capture and enslavement of Indians (Feliu Cruz, 1941: 176).

Historians seem fascinated by the recurrence of the restrictive regulations established by the New Laws of 1542. These regulations restricted personal services to *encomenderos*, made Crown officials responsible for determining the amount and composition of the tribute from *encomiendas*, prohibited the creation of new *encomiendas* and the reassignment of old ones, and set free Indian slaves.²³ In terms of our analysis, the significance of these regulations is that they became effective in different regions at

different times. The experience in the Antilles is subsequently repeated in Mexico, Peru, Venezuela, Chile and every other new colonial venture. The Crown made it clear that new conquerors would be assigned privileges, one of which was the right to receive encomiendas with restricted use of personal services of Indians at the beginning of each conquest.²⁴ This evidence is compatible with our interpretation that the Spanish Crown behaved as a wealth maximizing imperialist, but it is not compatible with an interpretation that allows the Crown to continually make mistakes, learn by its mistakes and regulate the abuses that the institution generated. Once the abundant Indian human capital had been substantially reduced so that the remaining capital increased in value to their users, new relationships were bound to develop.

The importance of defense measures within each colony in the Americas gives additional support to our thesis. Throughout the Sixteenth century the colonies experienced revolts by native populations, which were put down forcefully by the authorities. We can cite the revolts by Higüey in the Caribbean, the Mixton War in Mexico, the wars against the Indians of Pachutla and Lacandon in Guatemala (Zavala, 1967: 60), the various wars against Inca chiefs in Peru, and the long lasting campaigns against the Araucanians in Chile and the Caribs in Venezuela. Within a colony, the Indian masses were prohibited from bearing arms and riding horses; also, the forced relocation of Indians can be interpreted as defense (or social control) policies. Black slaves were also prohibited from associating with the Indian populations for fear that they would lead the Indians to revolt. The fear of external interlopers was also well founded. After all, Havana was sacked in 1550 by the French corsair Jacques de Sores, and there were numerous attacks by French, Dutch and English pirates on colonial towns and

fleets. The era of Sir Francis Drake and John Hawkins was not one of secure borders and peaceful coexistence.²⁵

The willingness of the Crown to take punitive actions against both domestic and foreign intruders is well-known. For example, at one point, the Spanish ambassador to France warned the French government that Spain would not permit the French to settle in the Americas (Peterson, 1975: 183), and the French settlement in Florida was later destroyed by Spanish forces that had been especially commissioned for this task. The obsequious behavior of Cortes towards the Spanish Crown, after his infringements upon the rights of conquest held by Velazquez can be interpreted as an attempt by Cortes to avoid punishment by the Crown. That the Crown also sided with Cortes shows the willingness of the Crown to grant rights to the highest bidder.

The Crown was also willing to act forcefully against independently minded settlers, as was demonstrated in Mexico and Peru. In Mexico, the conspiracy to make Martin Cortes king of an independent nation ended with the death of the conspirators, at the hands of Crown officials. In Peru, the battles of the Viceroy Nuñez Vela and Pedro de la Gasca against Gonzalo Pizarro ended with the death of the rebel leader.

VI. Conclusion

Though this paper is unable to capture the spirit of a century of Spanish imperialism in the Americas, and the richness of historical detail conspires against a simple abstraction of purpose and direction, and policy decisions are not easy to reach, throughout the period, the Crown seemed to search for a coherent policy of conquest. Many times the Crown appeared to be acting against its own self-interest, but what seems crucial is that self-interest, and not much more, tended to prevail. A case in point, which

illustrates the perspective advanced here, was the general order to dismantle the encomienda at the time of the Mexican conquest. Cortes not only disobeyed the Crown, he convinced the Crown that the new circumstances required the re-emergence of this institution (Zavala, 1973: 40-47). That at different times the Crown questioned the efficacy of its institutions simply shows a government strong enough to accept experimentation and self-criticism.

In conclusion, we restate that the economic purpose of the institution of encomienda was not simply to reward conquistadors, but to insure that the human capital of the newly acquired colonies be transformed into other forms of capital which were easier to defend from foreign aggressors. But, then, once a substantial part of the capital had been transformed, leaving a greatly diminished population that could be easier to control and defend, and no nearby territory required subjugation, the encomienda had achieved its purpose and it would be discarded within a colony.

If our thesis is accepted, a new look at the Black Legend²⁶ seems warranted: the atrocities of the conquest period cannot be placed squarely on the shoulders of brutal conquistadors. The colonists were fully aware that the incentives under the encomienda institution encouraged them to perform brutalities²⁷ and, while their conduct cannot be condoned, the ultimate incentive for this conduct must be placed on the policies imposed by the Spanish Crown.

Footnotes

¹In the case of the conquest of Mexico by Cortes, a more appropriate word would be "accepted" instead of "persisted," since Cortes had to convince the Crown of the benefits of the institution in this new conquest. See Cheetham (1974, Ch. 6).

²The historical origins of the institution prior to its introduction in the New World can be found in Chamberlain (1939).

³This view was first discussed in Chamberlain (1939), but the view has been accepted by subsequent historians. See, for example, Haring (1974: 44); Gibson (1964: 58); and Roel (1970: 89).

⁴This argument has been developed or accepted by Rodirigues de Mello (1943), Zavala (1943: 72-79), Gibson, (1964, : 59), Simpson, (1966: 123) and Gongora (1975: 127).

⁵This general argument has been extensively used by Glade, (1969: 56-67).

⁶See, for example, Roel, (1970: 81) and Cheetham (1974: 159). There were other factors which contributed to the decline in the Indian populations, such as wars and epidemics, but since the mistreatment of Indians in encomienda weakened the Indians' health, the magnitude of the impact of the epidemics depended upon the existence of the institution of encomienda.

⁷See, for example, Zavala (1935: 266) and Miranda (1952: 83-85). Another interpretation, held by very few scholars, is that the Crown did all it could to protect the Indians; it failed only because it had no effective power over the conquistadors. See Toro (1967: 343-344).

⁸Even when this interest had to be compromised with the needs of the conquistadors and the Crown's financial needs, there seems to be no disagreement.

⁹The contracts between the Crown and the conquistadors is discussed in Zavala (1935, Chs. 9, 13).

¹⁰The discussion which follows in this section is derived from the works of Haring (1947), Miranda (1952), Simpson (1966), and Zavala (1973). Some authors have at times emphasized that the encomienda took different forms in different regions; see, for example, Lockhart (1969: 427) and Keith (1971: 436-37). For our discussion, the similarities across regions and times are sufficient to allow us to use the institution as a unit of analysis.

¹¹See, for example, Haring (1947); additional references are numerous.

¹²This was not only true for observers at the time, but for all modern historians of the period. The most destructive activities were the use of Indians in mines and as carriers. The Laws of Burgos (1512) and the New Laws (1542) imposed extensive restrictions upon the use of Indians for "personal services".

¹³There is some evidence that the bribing of officials actually occurred during the colonial period, at least in Cuba and Chile. For the Cuban case, see Paso y Trancoso (1939: 127-131). The Chilean case is of greater interest, because a person could actually inherit an encomienda by paying a sum of money to the governor -- this was known as dejacion; see Feliu Cruz, (1941: 173-174).

¹⁴While our approach assumes the contractual relationships in an organization are devised by a fully informed, rational calculator seeking a solution to a well-defined optimization problem, there is an interpretation of this approach that relies on predicting the types of organizational structures that are most likely to be successful, and that therefore tend to arise through experimental and imitative behavior. Decisionmakers need not either anticipate or perceive environmental changes nor ascertain their

institutional implications; they need only initiate organizations that have become viable whether through conscious calculation, miscalculation, or experimentation. Moreover, even if the relative success of specific organizational structures is not perceived, more efficient organizations have greater and longer survival probability and therefore tend to dominate long-run time series and stable cross-sectional observations. This approach was first developed by Alchian (1950).

¹⁵We assume that both the Crown and individual conquistadors have utility of wealth functions which exhibit decreasing absolute risk aversion. Under decreasing absolute risk aversion, as a person becomes wealthier he is more willing to risk a given absolute wealth change, and thus, he is more willing to undertake a given risky investment (that is, for given odds, the risk premium for the investment decreases as wealth increases). Thus, since individual conquistadors would be poor relative to the Crown, the Crown would be better able to bear the financial risk of a specific conquest venture. An intuitive basis for assuming the degree of absolute risk aversion declines with wealth is that the Crown has the ability to hold a portfolio of conquest ventures while an individual conquistador would likely have his financial participation limited to only one venture, so that the Crown could reduce the financial risk of conquest activities by pooling a large number of independent conquest ventures. Consequently, if there was also symmetric information and perfect observability (no moral hazard problem), the Crown would have been the natural risk-bearer for each conquest venture. See Arrow for a discussion of the implications of decreasing absolute risk aversion.

¹⁶Rewarding colonial military leaders under salary contracts acts to shift the financial risks of conquest ventures onto the Crown. Batchelder

and Freudenberger use this argument to explain the emergence of centralized, bureaucratic states in Europe during the early modern period.

¹⁷The principles of this efficient capital-tax system have been developed by Thompson (1974) in a general equilibrium model in which a government is committed to deter aggression against the nation's capital stock. In this model, an increase in a country's stock of aggressor relevant (or coveted) capital acts to increase the return to a potential aggressor from attacking the country, thus requiring costly additional defense efforts by the government. Since a government provides for the collective defense of the property of its inhabitants, the defense externality arising from an increase in coveted capital is eliminated by imposing a capital tax on each unit of coveted capital equal to its incremental defense cost.

¹⁸The Crown used two additional institutions to check the accuracy of information: the residencia and the visita. See Haring (1947: 148-57) and Scholes (1946).

¹⁹Tithes are discussed in passim by every major work on the Spanish conquest, such as those of Haring (1966), Miranda (1952), Simpson (1966) and Gibson (1964). Of particular interest is the work of Borah (1941).

²⁰This argument was recognized in 1519 by several Church and Crown officials, and yet the argument has not been seriously discussed by modern historians. See, for example, Zavala (1973: 34-35, particularly item #5). The need to make the Church tax a more general tax was also explicitly recognized by the Crown in 1549. See Miranda (1952): 105-06).

²¹See Historia Documental de Mexico (1964: 220-21).

²²A detailed study of the Venezuelan case is found in Arcila Farias (1957).

²³A summary review of the New Laws is found in Simpson (1966: Ch. 10).

²⁴See, for example, Zavala (1973: 792-93).

²⁵A work that captures the conflict of the era is that of Peterson, (1975).

²⁶Modern discussions of the Black Legend are found in the following works: Keen (1969), Hanke (1971) and Gibson, (1964: Ch. 14).

²⁷See, for example, Haring (1947: 52) and Zavala (1973: 28).

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