STUDIES OF SELECTED MEXICAN COMMUNAL INSTITUTIONS:

COLONIAL PERIOD

DISSERTATION

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INTRODUCTION

In spite of the stories of fabulous mineral riches, Mexico's greatest wealth has always been its soil. Consequently, to any student of Mexican history an understanding of the way Mexicans have utilized their soil is of the utmost importance. The study of agrarian history, however, has been neglected. This paper represents an attempt to fill in one of the most glaring gaps in that study—the history of communal forms of land tenure during the colonial period.

Just as the colonial era forms the background for the agrarian struggles of the Mexican republic, the pre-conquest period provides the setting for the communal systems of landholding in the colonial era. This was especially true for communal agricultural institutions that were deeply embedded in both Indian and Spanish societies. The significance of the colonial period, however, was not merely that its years bridged the old and the new; it was a struggle between the cultures of the conqueror and the vanquished. The end result, still to be determined, was a composite culture rather than a clear-cut victory.

Although the Indians could be forced at the point of a gun to accept Spanish institutions, nature could not be threatened. Spanish authorities, consequently, recognized the merit of Indian customs well suited to the land and climate of New Spain.
such customs were the long established forms of communal landholding. As in Spain, the communal institutions of the natives had developed out of man's unceasing conflict with the forces of nature.

Scholars have offered a number of reasons for the origin of communal landholding and collective labor in the pre-conquest period. Of these reasons the most logical appear to be milpa agriculture, the lack of domesticated work animals, and the use of crude implements of cultivation. Although the following history will not be primarily concerned with origins of agricultural methods, the relation of each of these to communal practices will be noted.

The reader may be critical of the lack of statistics on this topic. In the study of communal forms of land tenure in pre-conquest and colonial Mexico, unfortunately, there is no statistical key. Even if historians agree on the number of inhabitants at the time of the conquest, there are no available figures on the subjects of communal acreages and yields. Communal agriculture, moreover, varies from community-owned lands worked on a family basis to lands worked and enjoyed on a communal basis. As for figures on productivity, even when available, the uneven distribution of Old World animals, seeds, and technology distorts any evaluation.
Mexican agriculture was concerned with more than mere digits on an annual report. It directly affected the everyday life of most of the inhabitants. What value was an increase in agricultural yield when the new working conditions created by the conqueror necessitated an increased use of meat and cooked foods? What pleasure did the Indian derive from growing wheat when his taste was more accustomed to corn? What benefit did the Indian obtain from feeding more masters and producing for export? Seen in this perspective, the lack of reliable statistics is of less significance.

The author of any specialized study has the problem of placing his subject into the vast stream of events. Fortunately, William H. Prescott has made the outline of the conquest of Mexico well known. At the same time, however, most people have slight knowledge of the very important but less romantic aspects of colonization - many of which are important for an understanding of the subject of this paper, yet too broad to be dealt with in detail. The following paragraphs in the introduction are concerned with such aspects.

Although, as previously noted, population estimates for the early sixteenth century vary, the conclusions of Sherbourne F. Cook

A. L. Kroeber, University of California Publications in American Archaeology and Ethnology, Vol. XXXVIII, Cultural and Natural Areas of Native North America (Berkeley: University of California Press, 1939), Table 10, insert. Basing his conclusions on the conviction that almost all of the interior drainage basin of the northern plateau was scantily populated by non-agricultural Indians and only a fourth to a fifth of the best land elsewhere was tilled, the author concedes the whole region of Mexico and Central America only 3,200,000 inhabitants at the time of the conquest.
and Lesley Byrd Simpson agree on many conditions that explain the need for and the use of communal agriculture in pre-Columbian and colonial Mexico. After a critical examination of the records of Spanish clerics, these two authorities conclude that the population was approximately 9,030,000, exclusive of Nueva Galicia. Considering the level of technology and the lack of work animals, such a heavy population suggests extreme land scarcity and the need for co-operative milpa agriculture. Dense habitation also conforms to the fact that imported slaves were unnecessary for farm work and to the shocking accounts of depopulation recorded in the first century of Spanish rule.

Depopulation, only partly a result of the disarrangement of Indian agriculture, was a phase of the expansion of western civilization in which conquered peoples everywhere have paid generously in lives and suffering. Despite a number of humanitarian precautions taken by the Spanish crown and clergy, the depopulation of New Spain assumed disastrous proportions before halted. Uncontrollable plagues, with smallpox, measles, malaria, and cholera the most potent killers, accounted for most of the victims. Father Motolinia, a contemporary Spanish historian, listed disease first

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among the major causes of depopulation. \(^3\) Imported Old World animals that were domesticated in America, moreover, increased the danger of infection.

The plagues permanently devasted many areas in the coastal lowlands. Most of the vanished Indian communities of the country were once situated in the tierra caliente, where cacao supported a heavier population than exists even today. The ruthless exploitation of the crop by Spanish overlords, coupled with slave catching expeditions and wars, disrupted the economy, while dysentery, yellow fever, and malaria prevented recovery. In contrast, almost all of the maize-growing communities of the central plateau survived the conquest. \(^4\)

In this study it is necessary to stress the importance of the characteristics of land and climate which have divided Mexico into three distinct agricultural areas and have prevented a more uniform system of land tenure. Before the conquest the least important region was the vast northern plateau, an open, arid region of substantial elevation, where the natives were willing to cultivate but generally unable. The second area was the humid

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\(^3\) Fr. Toribio de Benavente o Motolinia, Historia de los Indios de la Nueva España, ed. by Fr. Daniel Sanchez Garcia (Barcelona: Herederos de Juan Gili, 1914), pp. 13-14.

\(^4\) Cook and Simpson, op. cit., pp. 2-3.
the tierra caliente along the Gulf coast, where the land was usually cleared of forest before planting was possible. The third agricultural sphere was the southern portion of the central plateau and the highlands of Yucatan. In these two partly forested uplands, irrigation was unnecessary.

The impact of European domination affected agriculture in each area differently. Old World plants, although important, only supplanted the indigenous crops in coastal lowlands. The banana, for example, became the basic food in many tropical valleys. In other areas of the tierra caliente, on the other hand, cacao and sweet potatoes maintained their popularity. In the central valley and in Yucatan, maize remained the great staple, with beans, squashes, chili, and tomatoes supplementing the diet as before the conquest. Despite its forced adoption, wheat never appealed to the Indians and even lost its hold on many Spanish tables.

Decidedly more important than European plants was the importation of domesticated animals and poultry. Cattle, pigs, horses, burros, sheep, goats, and chickens were among the greatest contributions of the Spaniards. The grass of the arid northern plateau was converted into a range for untold cattle and sheep, and every village eventually acquired at least some livestock. Animals employed as beasts of burden were even of more consequence than those raised for meats and hides. Although the poor Indian farmer, denied the use of the horse, and too poor to acquire oxen, continued
to work the land with his own power and to walk to market with his heavy load, the conqueror took full advantage of work animals.

While the communal institutions developed as a result of man's adjustment to nature, it was man's adjustment to man that decided the fate of such institutions. It is hoped that by stressing the former, the latter is not slighted. This student firmly believes that it was human nature - not nature as such - which brought about the decline of communal land tenure in New Spain.
A decade after the initial conquest, a Spanish captain described the province of Tonalá as "muy estéril, aunque abundosa de maiz."\(^1\) This observation, when projected, provides an explanation for communal landholding in a nation whose inhabitants are renowned for their individualism. From the fact that much of the country possesses poor land capable of yielding corn, a type of farming generally known as the **milpa system** has evolved. **Milpa** agriculture, still dominant in many parts of Mexico, contains communal aspects which are in striking contrast to the strong individualistic character of the Mexican citizen. One reason for this seeming contradiction is that **milpa** farming exists mostly in rugged, isolated areas where individualism and localism make a parallel growth to collectivism.

Observers have not always recognized this Mexican inconsistency. Bishop Ramírez de Fuenleal, an early president of the Audiencia of New Spain, thought the Indians were incapable of understanding the Spanish custom of holding common woods, pastures, and waters.\(^2\) The Franciscan historian Mendieta wrote the viceroy in the last decade


of the sixteenth century that the Indians generally have such an inclination to division that, if possible, each macehauil family would be in charge of itself, with a church and minister to sustain it. Alexander von Humboldt likewise believed that "the Aztec people love to inhabit the summits and brows of the steepest mountains" because of a disgust with social life. Although they may have very well possessed this desire for solitude, the fact that such areas could support agriculturalists was due to the milpa system and its communal basis. Oscar Lewis, writing in nineteen fifty-one, noted the paradox when he concluded that most Mexican peasants were individualistic and co-operation was at a minimum despite a collective form of land tenure.

The term milpa agriculture was adopted by O. F. Cook several decades ago to describe the raising of corn on clearings in tropical forest areas. A similar method, tlacolol, is employed throughout Middle America on the marginal soils of steep and rocky, wooded

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slopes. In either case the trees and brush must be cleared by cutting and burning, and the fallow period may be as lengthy as twenty years. While the collective labor involved in milpa agriculture varies with geographic and climatic characteristics, nowhere is the method compatible with a rigid system of private possession of land. The usual biennial movement from one milpa of hillside or forest soil to another makes community-owned lands a virtual necessity.

The infertility of marginal Mexican soils, the main reason for the nomadic milpa system, has been perpetuated and increased by the production of corn, one of the most soil-exhausting crops. Coupled with the lack of fertilization and the viciousness of rainfalls, much of the country is now a wasteland. Interwoven into this problem, moreover, is a dangerous national psychosis. William Vogt fears that "the idea of the milpa farmer may be far more difficult to change than is the direction of the gullies through his land." In chapter II (The Tyrant) of Many Mexicos, Lesley Byrd Simpson also describes the plight that the "bread of life" has brought the Mexican people. Having already tumbled one civilization, the ancient Mayan Empire, he says corn now threatens another.


Corn production has created a need for collective labor as well as communal lands. The clearing of forests, whether by crude implements as in pre-conquest times or by the steel axe and machete of the European, has usually been accomplished by groups of families rather than on an individual basis. In Yucatan, moreover, where the Mayas feared harvest failures because of the frequency of droughts, all plots of the villages were sown communally so that everyone shared and suffered alike. Working together in groups of approximately twenty, each with an assigned task, the Mayas went from field to field until the community's crops were planted. ⁹

One should note, however, that collective labor is not always based on geographic and climatic conditions. In Guatemala today, for example, many family heads hire youths or exchange work with relatives to enable them to complete the sowing of milpas in one day, "namely the 'good' day of the calendar." ¹⁰ Thus a religious factor explains one reason for collective labor. In fact a religious ritual is involved in most phases of the planting and harvesting of corn. There is also no geographic and climatic necessity for the communal construction of farmers' huts. Estimating the cost as six

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times the price of efficient hired help, one ethnologist describes the collective work as a gay social gathering.\textsuperscript{11}

Far more important than such deviation from economic necessity, however, was the pre-Columbian want of most domesticated animals. On one hand the lack of a large meat supply increased the burden on the productive soil of Mexico, forcing the natives to utilize marginal lands requiring \textit{milpa} agriculture; while, on the other hand, the lack of work animals forced the natives to make use of the crude tools of the \textit{milpa} system in the heavy work of cultivation. Where beasts, especially oxen, could have been employed profitably, the land was cultivated by the use of \textit{coas}, long pointed instruments wielded at the expense of immense energy. On steep hillsides, however, the want of work animals made no difference as the terrain prevented their use. Joseph H. Retinger has suggested, "It is quite probable that the lack of animal power, with all its consequences, was among the chief factors which decided the form of the agrarian system in Mexico."\textsuperscript{12}

New World beasts of burden have had good and bad effects on Mexican agriculture. Coupled with the introduction of the plow, oxen and mules have greatly multiplied corn production per worker.


The many hours of traveling to and from distant milpas, often consuming over half the working day, moreover, have been lessened for the few who could afford to purchase donkeys. Unfortunately, however, beasts do not increase corn yield per acre, and the deep cuts of the plow and the pasturage of large herds assist the rain in washing away the top soil. Damage done to crops and fences by poorly guarded herds was also one of the most fruitful sources of colonial litigation.

Through careful regulation, on the other hand, domesticated animals have slowed the process of soil depletion in more progressive agricultural areas. Raymond Stadelman has written that the one factor making it possible for the Todos Santos Indians of northwest Guatemala to continue maize culture on the same lands for centuries was the use of animal manures. On land where sheep were enclosed temporarily, the fallow period of twenty years was reduced sharply. Lands within the villages also were enriched continually, if slowly, with garbage and the excretions of animals, fowls, and humans.¹³

Several changes occurred in the last quarter of the sixteenth century which hastened the transition from pre-Hispanic hoe culture on the better soil of New Spain. Due to a sharp decline in population, large areas of fertile level land were vacated, the

recruiting of Indian labor became more difficult, the Indian competition for the markets of growing Spanish cities was decreased considerably. Thus it was to the advantage of the conqueror to resort to European techniques, especially the use of oxen and plows. With less reliance on manual labor and more dependence on capital, the Spaniards supplanted many communally worked areas with privately owned estates. Symbolic of their success was the fact that land grants to conquistadores were measured by the huebra, the ground plowed in one day by a pair of oxen.

In contrast to the Spaniards, most of the natives in the colonial era continued to employ their ancient crops and customs. In 1563 an ex-soldier wrote Philip II that although the land was fertile, climate good, vacant areas and irrigation plentiful, and workers very numerous, the Indians could not cultivate the land because high prices prevented them from purchasing oxen, plows, and other necessary instruments of labor. Two centuries later the cost of plows and oxen in comparison with the coa, the standard implement of

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16 Borah, op. cit., p. 4.

the milpa agriculturalist, was still exorbitant. In the year 1778, for example, a pair of oxen sold for 17 pesos, a fully equipped plow for four pesos, while coas cost but 12 reales. With eight reales in a peso, one pair of oxen with plow cost \( \frac{14}{8} \) times as much as a coa.\footnote{Documentos para la Historia de México, 3d Series, Vol. I, part 2, (Mexico City: Vincente García Torres, 1856), p. 718.}

The problem has remained to this day. In 1941 a proponent of collective cultivation noted that the increase in small landholders created a scarcity of oxen, forcing up the price of a pair in parts of the state of Michoacán to 250 and 300 dollars.\footnote{Dagoberto Gomez Escobar, "Los Bueyes de Trabajo en los, Ejidos y su Alimentación," México Agrario Revista Sociológica, III, (1941), pp. 34-35.}

Horses had an indirect effect on the decline of the communal milpa farmer. Although seldom employed in the cultivation of crops, their use in herding and marketing by the Spaniard was of inestimable assistance. The market radius of the conqueror's produce was extended far beyond that of the native who was denied the use of the horse throughout much of the colonial period. Those, however, who argue that Spain purposely prohibited the employment of the horse to keep the native culture on a lower level, probably have exaggerated.\footnote{Carlos M. Ibarra, Economía Política Mexicana (Puebla: Linotipografía Económica, 1940), p. 21. The author believes that the prohibition of the use of horses by natives was a conscious effort by the crown to keep native civilization on an inferior level.}

The best explanation for the prohibition was one of military necessity, summed up in the popular commentary on the conquest: "For, after God, we owed the victory to the horses."\footnote{Re Cunningham-Grahame, The Horses of the Conquest (London: William Heinemann Ltd., 1930), p. 1.}
Partly as a result of the lack of work animals, the use of cumbersome agricultural tools necessitated the need for collective labor in tasks other than the clearing of milpas, especially on the steep marginal lands which were utilized to feed the dense population of pre-conquest Mexico. The political economist Carlos M. Ibarra has suggested that only through the combined strength of many human beings employing crude implements was it possible for the natives to conquer the land. To partially prove his theory, for instance, the Mexican scholar has noted that a similar form of collective agriculture still exists in mountainous areas near his native Puebla, where frequently a number of men help each other to sow lands inaccessible to beasts.

Concerning the tools of the pre-conquest and colonial milpa farmer, Saverio Clavigero wrote:

> Having neither ploughs, nor oxen, nor any other animals, they supplied the want of them by labour, and other more simple instruments. To hoe and dig the ground they made use of the Coatl (or Coa)...

Although the Coa was but one of several crude implements employed; its size—almost the stature of a man—was typical of the primitive level of the milpa agriculturalist. In a recent study of the

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Mexican village of Tepoztlán, Oscar Lewis noted that not only were all tlacoleros (milpa farmers) poor, but their labor was "infinitely more exhausting than work in plow culture."²⁴

The need for instruments as crude as the coa has not been merely the result of a low state of technology. In many areas plows and oxen have little value because the terrain is too stony for the use of plows and too steep and barren for the use of oxen. Although its cost probably would be prohibitive, even the modern metallic plow has proven a failure on level, rocky ground.²⁵ Aware of this situation, colonial observers made note of the suitability of land for rude plows, or coas. For instance, Juan Rodríguez, a conquistador in Yucatán, reported in 1579 that the ground around the pueblo of Cucopó was incapable of producing wheat, barley, or rye because it was too stony for plowing.²⁶ In another part of Yucatán, an alcalde mayor informed His Majesty that even if the temperature were cooler and water plentiful, wheat could not be grown because plowing was impossible on a slab of flagstone.²⁷ An example of a favorable report was a message which described the land around the

²⁴ Lewis, op. cit., p. 155.
²⁷ Ibid., p. 259.
presidio of Monclova (near the Nueces River) as so crumbly and soft that it could be cultivated with a stick.  

Although finding it increasingly difficult to accomplish, governmental agencies and religious brotherhoods tried to supply the necessary farm implements for colonists and special groups of Indians. As early as 1544 Viceroy Luis de Velasco told the authorities of the city of Mexico that as long as Indians were recruited for public works they must be furnished with maize, and that, contrary to the belief of public officials, the land was too stony and wooded for merely coas. Axes and iron rods should be supplied, he said. In spite of the fact that the Royal Treasury, low in funds, had warned in 1698 that no additional assistance could be made, in 1706 it was forced to supply axes, hoes, plows, coas, and shovels to colonists in New Mexico. As for the friars, the poor College of Durango of the Company of Jesus reported in the middle of the eighteenth century that one of the causes of its slow development was the lack of farm equipment necessary to cultivate the land.

28 Documentos para la Historia de México, 3d Series, I, p. 476.


30 Documentos para la Historia de México, 3d Series, I, p. 189.

31 Documentos para la Historia de México, 4th Series, Vol. IV (Mexico City: Vicente García Torres, 1857, p. 50.)
Despite uneven and slow adoption, European plants and domesticated animals had a profound effect on the diet of the Mexican people, as well as on the decline of communal landholding and collective practices. With the utilization of plows, oxen, wheeled vehicles, and winter cereals permitting two plantings a year, a capitalistic economy based on large-scale hacienda production evolved. This was especially true near the larger cities or prosperous mines where a ready market could be found. Other things being equal, the value of land varied directly with its distance from market. While the communal farmer on a subsistence level continued to vary his production with small plantings of maize, chile, maguey, chia, beans, peanuts, and sweet potatoes, the hacienda system came to concentrate on the great staples, maize, wheat, and beans. This situation still holds true today in Tepoztlán, where Oscar Lewis notes that only those who employ plows on privately owned farms were producing for market.

While European beasts of burden were assisting in the decline of communal agriculture, the introduction of animals for meat, wool, and hides led to the formation of the ejido, the best known type of communal land tenure. The ejido, which will be described in a following chapter, was a public pasturage for the town's flocks.

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33 Lewis, *op. cit.*, p. 131.
The adoption of the *ejido* along with that of common woods and waters was the continuation of a long Spanish heritage of communal and co-operative enterprises.

The introduction of grazing animals also indirectly aided in the survival of communal agriculture. One important result of the establishment of *ejidos* was the further extension of the lands of cultivation from the town proper. Thus *milpas* were planted higher up the hillsides, the ideal location for the preservation of communal lands and collective agriculture. In the same way the roving of pigs and chickens around the village huts created the need for *milpas* farther away from town.

Communal pastures, woods, and waters caused the most difficult problem in the Spanish populated cities where the needs of the settlers of the town proper were not always compatible with the needs of the natives on the outskirts of the community. Because of this inharmonious condition, the control of the community lands, water supply, quarries, woods, and pastures was in the hands of the conqueror. Even the policy of founding Spanish towns distinct from Indian settlements was no solution, as the necessity for a nearby source of Indian labor remained.

The recruitment of natives to construct Spanish-town buildings and to work in the mines and industries, moreover, led to the development of a wage or slave class of workers with little time to till

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Foster, *op. cit.*, p. 12.
their communal milpas. An example of this development was an order issued in 1576 which reserved only two months of the year (July and August) for the Indians of the pueblo of Calmecatitlan to till their own fields. In 1587 Father Mendieta concluded that the Indians were losing their lands because they do not have time to work them. This fact was officially recognized in a regulation of 1603 which ordered that Indians should be paid for the time consumed traveling to and from the place of repartimiento (the system of forced labor) and should not be detained on the way since after returning from a long journey they find their milpas destroyed.

Foreigners, especially the landless opportunists, also unintentionally or wantonly harmed the crops of the Indians. In 1540, for example, the Bishop of Oaxaca wrote that since there was no public pasture in Antequera, the Spaniards could not have avoided the harm done by their cattle to the crops of the Indians.

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36 García Icazbalceta, Nueva Colección, V, p. 22.


1575, however, the Spaniards who abused the natives in the pueblo of Tlapa were not only ordered to cease the practice of taking Indians as pack carriers and shepherds but also forced to pay for all damages done to the public lands. Likewise, in the third decade of the seventeenth century, twelve Spaniards, mestizos, and mulattoes were compelled to reimburse the Indians of another village for causing the destruction of community milpas.

Despite such unfortunate aspects of Spanish colonization, the effects of the conquest were not always as bad as they appeared. For example, Sherbourne F. Cook claims that if the native population in the sixteenth century had not been drastically decreased by epidemic diseases and other happenings, the rate of deforestation would have brought "famine and death, or wholesale emigration, which would have spelled the end of Aztec power and domination." Deforestation, an all important factor in soil erosion and underground water level, was a serious problem at the time of the conquest because of the rapid growth of the newly arrived races that had too successfully adapted themselves to the milpa system. With


the aid of the *coa*, they had penetrated the steepest hillsides, necessitating the burning of vast areas of timber. The Malthusian tragedy was temporarily stayed only through the widespread cultivation of nopal and maguey, indigenous arid land crops. By the end of the colonial period, however, the extensive use of the plow, as well as the *coa*, created a new cycle of deforestation.

Deforestation, a long recognized problem in Mexico, was never halted by legal means. Despite a thirteenth century ordinance promulgated by Nepaltzin, which ordered under penalty of death that no one could set fires in the fields and mountains without license and necessity, milpa agriculture continued to expand. In the sixteenth century, moreover, the rebuilding of the city of Mexico, requiring huge quantities of lime for cement, and the growth of the mining and smelting industries delayed the fortunate effects of depopulation. When the problem returned at the end of the colonial period, ordinances were issued which required governmental permission to build fires to clear soil near woods, prohibited hunting with lamps, ordered shepherds to be careful in building fires, and ruled that all royal fields which had been burned would be closed off for five years so that flocks of animals might not add to the destruction.

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42 Ibid., p. 58.
43 Ibid., pp. 30.
44 Ibid., pp. 31-32.
45 *Maza, op. cit.*, pp. 61-62.
The planting of tree crops, one method of reforestation, was retarded by communal landholding based on a subsistence level. Noting that the primitive peoples of ancient America did not extensively grow tropical tree crops except cacao, O. F. Cook concluded that the reason was because "they do not become productive for several seasons and require an investment of labor not likely to be made among tribes who do not have private property in land, or other assurances of permanent tenure." A decade after the conquest, Bishop Ramírez de Fuenleal wrote that in the province of Mexico the natives did not have any desire for putting in vines or trees as in other parts of New Spain. The Spaniards with investment capital, however, had a more fortunate attitude towards tree crops.

Large-scale capitalistic production for market also led to a rapid disappearance of communally owned salt beds. With huge quantities required in storing unrefrigerated meats, salt became too valuable a prize to be enjoyed freely. As early as the 1580's hardened _conquistadores_ hypocritically were lamenting the passing of the pagan custom of communal salt beds in Yucatan.

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46 O. F. Cook, _op. cit._, p. 325.

47 García Icazbalceta, _Colección_, II, p. 186.

The destruction of ancient communal customs did not bring about a system of free enterprise. Crop and animal regulations continued to restrict the agriculturalist. In 1587, for example, authorities issued an order for an investigation in the valley of San Pablo, where it was reported that some Indians spent more time growing maize than wheat. At the turn of the sixteenth century officials announced that no sugar cane, not even a small quantity, could be grown on any new land. The government wanted the soil to be utilized for wheat and corn. Concerning the forced innovation of wheat, Lesley Byrd Simpson has written that "the only reason for it seems to be that the white man considered it to be infra dig. to eat maize." The restrictions on the slaughter of domesticated animals, however, probably were ignored in order to prevent excessive supplies and low prices.

52 Gonzalo Gomez de Cervantes, The Vida Económica y Social de Nueva España al Finalizar el Siglo XVI (Mexico City: José Porrua e Hijos, 1944), pp. 94-97.
In succeeding pages communal landholding will be presented as an institutionalized system with a historical evolution on both sides of the Atlantic. Political, social, economic, and legal aspects will be stressed. The conquering Spaniard, as well as the vanquished Indian, however, was not always the master of his fate, and so the relation of natural laws and resources to human techniques must constantly be kept in mind.
CHAPTER II

PRE-CONQUEST COMMUNAL INSTITUTIONS

Spain

The Spanish conquerors were thoroughly familiar with communal customs. On the Iberian peninsula communal landholding had developed out of a life or death dependence on the breeding of flocks on lands too arid for general cultivation. The creation of the ejido, a community-owned pasture, was the result. After the importation of European animals and techniques into Middle America, it was natural that the institution of the ejido would be introduced also. Because of the great importance of the ejido, as well as the heritage of communal life, a brief summary of the Old World background of co-operative agriculture follows.

Basic forms of communal property and customs, originating in the Spanish village (comunidad) at the dawn of history, survived both the Roman conquest and the invasion of the Visigoths. Communal practices were so entrenched that even the barbaric Visigoths, strong believers in private property, recognized the collective needs of the Spanish towns. Although the Visigoths took most of the land for themselves, they left pastures, woods, and vacant fields, for the communal use of the towns.¹ By the eighth century the town commons

were so jealously protected that migratory flocks belonging to the Mesta, a powerful organization of large-scale sheep breeders, were forbidden by law to pasture on the commons.  

By the eleventh century village communal lands were protected by means of **fueros**, charters of privileges granted municipalities by weak feudal lords. From the eleventh through the fourteenth century the **fueros** generally provided for the right of townspeople to fence in uncultivated lands for making hay and pasturing flocks, to take water to irrigate their gardens and vines or to use in mills, and to enter the forests for fire and construction wood. The **Siete Partidas** of Alfonso the Wise, moreover, recognized the **ejidos** as a place common to all, rich or poor, which could not be acquired or cultivated by any person, but which must remain as a place of recreation and pasture for the whole village. Thus as a medieval corporative organization, the **ejido** could exist only so long as the monarchy continued to be too impotent to violate the rights of the towns.


4 **Alfio Rubén Escamilla Andueza, El Ejido Procedimiento para su Tramitación sus Dificencias en Primer y Segunda Instancias** (Mexico City: Universidad Nacional Autónoma de México, 1949), p. 11.
Wherever possible the villagers also established a propios, a community-owned area of land which was planted as a means of support for public functions and officials. Similar to the Indian government, temple, and army lands worked on a communal basis by plebians under the direction of village authorities in Middle America, the propios was assimilated more easily in native communities of the New World than the other Spanish communal institutions. During the colonial age the operation of the propios was linked closely to the village treasury, the caja de comunidad, which handled the finances of local communal enterprises.

The communal lands, woods, and waters of the towns were not the only collective features of Old World Spanish life. On the manors of the feudal lords, peons were provided with special plots that were worked and enjoyed in common. After the harvest, moreover, all lands of large estates were thrown open for the grazing of all flocks, even those of the neighboring village or the whole district. Other co-operative enterprises were found in wheat producing regions where the villages usually possessed a threshing floor (área) and granary (alhóndiga). Lesley Byrd Simpson has called the village granary "a social insurance society in uncertain land for rainfall."


6 Simpson, Many Mexicos, pp. 79-80.
Although no novelty in the New World, the historian Saverio Clavigero made special note of the construction of the granaries by Europeans in New Spain. 7

By the end of the fifteenth century new forces in Spain were arising to break the strength of the city leagues, staunch defenders of the fueros. In the new age of powerful states and mercantilism, the monarchy and the Mesta, foremost opponents of the fueros, combined to invade the rights of the towns, eventually destroying the ejidos. The victory, however, in no sense reflected a popular hatred of communal enterprises, because after the expulsion of the infidels in 1567, over twelve thousand Christian families quickly accepted the monarch's invitation to settle the vacant Moorish estates on a communal basis. 8 Thus in the first century of colonization in New Spain, communal landholding and collective practices were still deeply embedded in Spanish society.

Middle America

Bernal Díaz, the foremost contemporary authority on the conquest, noted that the township or pueblo appeared to be the key unit of Indian society. 9 The family, despite its solidarity, was always a

7 Saverio Clavigero, op. cit., p. 378.

8 Retinger, op. cit., pp. 22-23.

part of a larger social and political group, a virtual necessity where communal forms of agriculture existed. Through confederations of key cities, moreover, peace was maintained for long periods of time, permitting the development of widespread agricultural areas comparatively immune from destruction. Thus as the *milpas* in the immediate vicinity of the village were exhausted, local inhabitants could extend safely the tract of cultivated fields. Although the natives at first dwelled in scattered huts during the growing season, it time permanent pueblos were established. The original community, meanwhile, tended to develop into a center where members of the surrounding towns gathered for the barter of goods, affairs of government, and ceremonies of a religious nature. 10

In such a situation the growing scarcity of fertile soil had a profound impact on the division and control of land. Hernando Cortés, for example, recorded on his journey from the coast that except for an area near Churultecal (Cholula) "there is not a hand's breadth of land which is not cultivated." 11 As cities grew and agriculture became more extensive, village autonomy decreased and classes became more rigid. Despite many democratic features in village life, land distribution evolved into a prerogative of the


military and ruling classes after every war. With this development, moreover, the chiefs and priests who enjoyed the yield of the public lands were much better off than the common villager whose share, generation by generation, tended to diminish. Fee simple estates never evolved, however, and the tribal or village title to certain lands was never questioned.

By the time of the conquest, the land in respect to fertility was apportioned in the following pattern. The very richest fields were held by the Aztec rulers and their vassals, the next best tracts were divided among the priest and military classes, and the poorest milpas, usually the farthest from the town, were left to the plebeians. Working together on a communal basis, the plebeians maintained their plots at the expense of increasing tributes and part-time labor on the religious and military estates.

Indication of land hunger was reflected also in native laws and practices. One generally accepted custom was that a commoner of the village or clan lost his land if he failed to work his plot for two years without good reason. Others apparently needed the unused tract. The Anonymous Conqueror noted another severe penalty

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Since milpas in poor soil require fallow period as lengthy as twenty years, the importance of the custom may be over emphasized.
when he observed that "if any one entered a field and stole three or
four ears of maize he became a slave of the owner of the field."[^14]
Most significant, however, was the servile class of agricultural
workers who possessed no village land and labored for others.

Serfdom was probably a late development, but it was firmly
rooted by the time of the conquest. Unpropertied peasants, [macehaules or tlatmactes](#), were manored on the lands of their
immediate master or señor, owing services to the supreme señor of
the tribe only in time of war. These mayeques did not till the
common lands of the free villager or pay any tribute. Without social
and political standing, they paid only a kind of rent for the
privilege of cultivating the lands of the nobility. The mayeques
were bound to the soil and were inherited along with the rest of
the estate.[^15]

The position of the landless serfs was brought out clearly in
a petition of the principales of Huexotzingo (in the state of Puebla)
to the viceroy in 1555:

[^14]: The Anonymous Conqueror, Narrative of Some Things of New
Spain and of the Great City of Temestitan Mexico, trans. Marshall H.

[^15]: Alonso de Zorita, Breve y Sumaria Relación de los Señores y
Señoríos de la Nueva España (Mexico City: La Universidad Nacional
Autónoma, 1942), pp. 116-17.
We principales (they wrote) have held our lands from time immemorial, since our forefathers left them to us, whereas the macehaules had none; and they cultivated our lands and brought us wood and water and built all the buildings we had need of, and they gave us chickens and chile and everything for our maintenance; and their wives and children served us in everything we commanded. All this they did so that we might let them sow their crops on our lands....

Slaves were taken usually from communities outside the Aztec tribe and, as in medieval Europe, were not considered a segment of class structure. Their status could not have been much worse than that of the serf, and after the conquest many Spaniards drew no distinction between the two landless groups. Although their chief duty was performing the most ordinary services in the town, many served as human carriers, field workers, and personal servants. The ranks of slavery were filled continually by those hopelessly in debt, as well as transgressors, traitors, idlers, and drunks. In time of famine, a common occurrence in the over populated land, moreover, hungry families sold their children to chiefs or wealthy merchants.

17 Carlos Bosch García, La Esclavitud Prehispánica entre los Aztecas (Mexico City: Fondo de Cultura Económica, 1944), pp. 32-59.
The only slaves sacrificed to the gods were prisoners of war taken to the Aztec capitol.

Despite many significant decentralized aspects, native land tenure evolved into a complicated political and social pyramid. In every province there were Aztec vassals with large holdings of land and serfs or slaves. These estates of nobility could not be alienated to the common people under any circumstances. Inheritance usually passed from father to son with the approval of the foremost señor of the region. Nobles fell into several ranks: the first class held civil and criminal jurisdiction over their provinces and the pueblo in which they resided; the second class possessed estates with serfs or slaves as life-long rewards for state or military services; the third class consisted of the parientes mayores chosen from the very oldest members of the calpulli, the primary landholding unit of the common villager.19

Payment of tribute, an obligation of all recognized classes, varied according to the customs of the province, but generally the pueblos that were conquered in war or defeated in rebellion paid the greater amounts. While some portion of the tribute consisted of crops or goods, plots of land also were often set aside for the benefit of the Aztec rulers and the military forces of the government. Those who suffered most were the free communal citizens who not only had to cultivate the new domains but were forced also to

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grow their own sustenance on poorer milpas farther from town. Although the land still legally belonged to the people of the pueblo, the central government demanded its use in an arbitrary manner. 20 Even Adolph Bandelier, who overemphasized the intrinsic democracy of the aborigines, admitted that each family of the calpulli "voluntarily" contributed an additional amount of produce whenever the government plots failed to prove sufficient. 21 Since, in addition, the lesser chiefs paid tribute, the serfs and slaves who worked on the estates also were affected indirectly by the tribute.

The growing expense of government was an important factor in the degeneration of democratic village life. The swelling complications of civilized society multiplied the offices of governors and ministers of justice. The great house, the temples and public works, and the burden of entertaining visiting dignitaries became increasingly difficult to maintain. After every war, moreover, the number of military leaders who were rewarded with lands and subsistence grew larger. The demands of the government upon the lower classes became so oppressive that one authority has suggested


that most Indians may have welcomed the milder serfdom of the Spaniard.  

In summary, as society became more complex and less fluid in structure, three basic types of property evolved. First were the holdings of the nobles (pillalli), worked for the personal benefit of the señor who owed allegiance and occasional tribute to the central authorities; second were the public properties such as lands cultivated to cover the expenses of the temples (teopantlalli), the army (yaotlalli, milchimalli, or cacolomillo), ordinary governmental functions (tlatocatlalli or tlatocomilli), and the palace or house of government (tecpantlalli); third were the communally operated properties of the calpulli (calpullallis or altepetlallis).  

Communal labor, forced or free, existed in all three classes of property. Even the nobility who ran their estates as feudal manors or slave plantations apparently had the right of calling upon the so-called free citizens of the calpulli during harvests. The army, government, and temple lands, theoretically possessions

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of the village, also were cultivated collectively on a part-time basis to support wars and to cover public and religious services. Only on the milpas of the calpulli, however, did the commoners share in the fruits of their labor.

Far from being merely a clan based on bonds of blood, the calpulli was an organized unit of society with definite economic, religious, and political functions. The word calpulli was derived from calli meaning house and pulli or polli which denotes a cluster or augmentation of similar things. The Spanish chroniclers, correctly aware of the territorial basis of the calpulli, employed the term barrio (neighborhood). Politically, the calpulli was the smallest important subdivision of the regiminted state.25

As noted in the introduction, there are no available figures for the percentage of Mexican lands held communally, let alone that of the calpulli. Conditions during the conquest were too unstable for an accurate estimate, even if the Spaniards had been able to understand the system of land tenure. Using logic rather than statistics, one modern day historian believes that if the chiefs made up no more than ten per cent of the population, lands outside of the calpulli must have been very reduced.26 One must take into account, however, that calpulli plots were the less productive milpas where lengthy fallow periods sharply decreased the average yearly yield.

25 Moreno, op. cit., pp. 15-16.

The **calpulli** system of communal land tenure was common to Yucatan, the central valley, the coastal plain, and isolated areas of northern New Spain. The Mayas, in fact, utilized the **calpulli** more extensively than the Aztecs. A Spanish observer recorded that since the lands of the towns were held communally, there was no need for boundaries or landmarks, except between provinces and around tracts set aside for special purposes. Salt beds along the northern seacoast and all hunting and fishing ventures were communally administered also. As among the Aztecs, there was rigid control of all communal enterprises by local Mayan lords who received tribute in kind before distribution took place.

In Aztec regions more than one **calpulli** usually possessed the common lands of a town. **Calpullec** (plural) varied in size according to the division of the ancient conquerors and the growth of population. Many **calpullec** were offshoots of older ones which had become too large. Because of the dense population in many Aztec areas, moreover, the fields of every **calpulli** were surveyed and recorded more carefully than was the custom among the Mayas. The streets between calpullec were marked also so that members of one **calpulli** would not disturb those of another. The rights and property of every **calpulli** were guarded jealously from the inroads

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28 Ibid., (Main body of work), p. 87.
of neighboring calpulli, but, unfortunately, not from the demands of the local señor.

Within the calpulli, authority over local matters was in the hands of a pariente mayor. Despite the democratic connotation of his title, by the time of the conquest the parientes mayores formed a definite noble class apart from the ordinary families of the calpulli. The pariente mayor looked after the fields of the calpulli, defended the plots from imposters, and kept records of individual allotments. By means of an intricate chart system, he knew which tracts were cultivated, who worked them, which lands were vacant, and who was without land. The pariente mayor lived next to the great house where frequent council meetings were held with the lesser members of the calpulli. A sixteenth century Franciscan ordinance partially attempted to continue this respect for old age when it required that an old man of every barrio (calpulli) be put in charge of gathering together the children and taking them to school.

The calpulli was broken down into subdivisions based on primitive family origins, as well as social, political, and economic position. Not only were there chiefs of one hundred families and lesser chiefs

30 Zorita, op. cit., p. 405.

of twenty families, but each street was reserved also for members
or relatives of one family group. Proposing to re-establish the
old Indian form of organization in the latter part of the sixteenth
century, Father Mendieta called the caudillo of a hundred men
macuiltecpanpixque and that of twenty centecpanpixque. One
anonymous account recorded that the system worked so well that
within an hour the señor could unite the whole village.

Although the property and public functions of the calpulli
were owned and operated communally, the milpas not destined for
special purposes were enjoyed on a family basis. Collective labor,
a mutual agreement between families, as noted in Chapter I, extended
to a few phases of milpa agriculture, but the rest of the work
was done by the family. The size of the plots varied with need
in more fortunate villages and with the quality of soil and quantity
of acreage left them after the apportionments of the nobility and
government in other places. Each tract of family land was called
tlalmilpa and marked by stones and protected from confiscation or
destruction by severe penalties. On this non-communal feature

32 J. Kohler, El Derecho de los Aztecas, trans. Carlos Rovalo
y Fernandez (Mexico City: Compañía Editora Latino Americana, 1924),
p. 48.

33 Monzón, op. cit., p. 32.

34 García Icazbalceta, Nueva Colección, V, pp. 86-87.

35 Francisco del Paso y Troncosco (ed.), Epistolario de Nueva
España 1505-1818 (Mexico City: José Porrúa e Hijos, 1940), p. 147.

36 Vega B. Nicanor, Algunos Aspectos de los Colonizaciones en
of native life, John Eric Thompson has written:

Those who were hungry were allowed to pluck two or three ears of corn as they passed the fields, but should a man take a large quantity of corn or maliciously uproot plants in the fields, he suffered death.37

In spite of the increasingly heavier tribute exacted by local and supreme señores, the pre-conquest Indians of the calpulli did not labor as strenuously as did the serf or slave. Because of the cold mornings in the central plateau, scanty clothing, and poor diet, the members awoke late and worked only a few hours each day.38 Much time was consumed in walking to and from the scattered village or family milpas. In Mayan territories where the milpas were often many miles from town, the common people lived on the outskirts, the distance from the central plaza marking one's social position.39 Some plots were so far away from town, that at the time of the conquest, constant wars were waged between provinces over valuable milpas left unoccupied for long periods of time and too difficult to watch.40

37 Thompson, op. cit., p. 109.


By the sixteenth century, communal agriculture was widely entrenched in Middle America. It extended as far north as the Hopi villages, where clans collectively possessed and cultivated the soil, and as far south as Panama, where even today the Guaymís practice old Aztec customs. Common ownership of woods, waters, game, fish, and salt preserves also was the rule. The only novel European communal custom of great importance introduced in New Spain was the common pasture, an institution of no value until after the conquest.

The sketch below is an idealized picture of a small pre-conquest Mexican village:

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A. Huts of the calpullec
B. Milpas of the calpullec
C. Reserve lands of the village
D. Common woods and waters of the pueblo
E. Lands of the temple
F. Lands of the army
G. Lands of the central government
H. Lands of the local nobility.
CHAPTER III

COMMUNAL LANDHOLDING IN COLONIAL TOWNS

Ordinances throughout the colonial centuries have given the historian a clear picture of communal village life in theory, but, unfortunately, there was a vast difference in reality. The success of institutions promulgated from above, especially in a chaotic society, was not automatic. There were inherent weaknesses in communal enterprises, as well as in the laws that provided for them.

Regulations for the division of land and the settlement of new towns were issued before Cortés conquered New Spain. These ordinances, the Laws of Burgos (1512-13), however, were made more specific after the conquest. Spanish authorities, noting the success of the grid pattern in the rebuilding of Mexico City, worked out plans for both Spanish and Indian communities. Commencing with the conviction that the crown owned all the land and could dispose of it at will, the planners also attempted to design towns that would take into account basic Spanish and Indian institutions. The net result was a confusing composite of private, communal, and state concepts of land tenure.

The most puzzling problem confronting the town planners was the achievement of a happy balance between protection and exploitation.

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of the native. With hardened conquistadores, pious friars, Indian caciques, and government officials offering conflicting suggestions, the task was far from simple. But results of early experiments were studied carefully, humanitarian laws were put on the books, and Indian protectors were named, though the native communities never prospered. Even the adopted policy of separate towns for Spaniards and Indians was no solution. Whether it occurred to the Spaniard or not, ordinances of protection were meaningless as long as the exploiters were charged with their administration.

In their effort to achieve a balance between exploitation and protection, authorities had to decide whether exploitation was to be a function of the government or private encomenderos. After the attempt of the New Laws in 1542 to place all encomienda Indians under crown authority was met by strong resistance, a dual system of overlordship was sanctioned. In some areas, in fact, there was a policy of congregating both crown and encomienda natives in the same village. Since communal landholding and collective enterprises were protected more easily under the direct control of the crown, the failure of the New Laws was a serious blow to communal institutions.

All new towns took form with the marking of the fundo legal (town proper), an area on which the villagers built their dwellings, church, casa de comunidad, and other necessary buildings. The size of the town proper varied greatly among Spanish cities, but in 1567 a vague cédula set up 500 varas as the standard radius of Indian villages. Within the fundo legal, the Indian families were given small plots on which to build huts at least 30 feet long and 12 feet wide.

Unforeseen arguments arose in 1687 when a cédula extended the radius of the fundo legal another 100 varas, starting from the old boundary or farthest house of the town. Since a related law prevented the founding of Spanish estancias within 1,100 varas of the fundo legal, surrounding Spanish landholders complained to the viceroy that they were being cheated out of their property. They claimed, moreover, that since Indians had built up their fundo legal without proper organization, some huts standing a quarter of a league apart rather than the legal limit of 3½ varas, the additional 100 varas from the last house of the community was grossly unfair. Ferdinand VI in 1695 attempted to settle the difficulty when he ordered that the 600 varas be marked off from the atrium of the


main church and that the 1,100 vara measurement should be made irregular to exclude the lands of the Spaniards. If the latter were impossible, the King ruled that the difference should be made up from nearby royal tracts.\(^5\)

The fundo legal was an outgrowth of the desire of the clergy to have an inalienable base of operation for religious propagation. Without a propios and ejido, however, the town proper could not sustain the Indians economically. As early as 1561, Alonso de Zurita, after a thorough study of Indian conditions, petitioned the government to provide and protect the propios and ejidos of native communities.\(^6\) Despite his pleas, and others similar to it, by the end of the colonial period the fundo legal was the only property that the Indian villager held. One nineteenth century historian concluded: "Sometimes they were permitted to possess more, in murky mountains, where the wolf and jaguar had tranquil possession of sterile savanna."\(^7\)

The propios, the cultivated land of the native village, was the most important communal economic institution. Similar to pre-conquest town lands that were either worked or owned collectively, the propios was readily understood by the Indians. The monarchs


\(^6\) García Icazbalceta, Colección, II, p. 337.

\(^7\) Orozco, op. cit., p. 1085.
of Castile and the Catholic Church merely had replaced Montezuma and his pagan priesthood as the main beneficiaries of the tribute exacted from the harvests. To the villagers the propios was more than just an institution; it was a way of life. With the funds raised from harvests and rents, the towns supported hospitals for the sick, invalid, and aged, mills and granaries, local parishes, and casas de comunidades. Alonso de Zurita was so impressed with the benefits of the propios that he proposed that the Spanish towns adopt a similar system.8

The size of the propios varied with the community. In towns where Indians already had marked out their family milpas (tierras de repartimiento) before the arrival of Spanish officials, usually corregidores, the land of the propios was reduced considerably. The minimum extension of the propios by law was all the land between the fundo legal and nearby Spanish estancias, a distance of 1,100 varas in all directions, minus the communal woods, pastures, and waters and the tierras de repartimiento. The basic difference between the natives who possessed tierras de repartimiento and those with tracts in the propios was that the former paid tribute and the latter paid rent.

By the middle of the seventeenth century, regulations governing the propios were very detailed. Juan Xiu, governor of Oxkutzcab

8 García Icazbalceta, Colección, II, p. 337.
in Yucatan, was charged by the captain general in 1665 with the following duties concerning the village lands and related functions:

That inasmuch as the milpa to be cultivated for the town in commonality is essential and necessary, I command that he take great care that it be properly sown, harvested and stored.... That care is taken that the Indians of the town stay in it without permitting them to live away on ranches, milpas or work places.... It is commanded that he cause the Indians to work in the spinning and weaving of articles for the tribute, together with the maize and the chickens called for by the tax regulations.... He shall see that the tribute is paid punctually to the Encomendero.... I order that he permit the Indians as to everything they produce beyond the amount of the tribute, with their gatherings of wax, honey, cochineal and fruits, a free sale by them in the town.... a milpa of 70 mecedes of the commonality be farmed for him....

Under Spanish rule, however, the propios was doomed to extinction. Father Mendieta, noting the alarming number of lawsuits concerning community lands before the audiencia in 1562, listed some ominous complaints. One was that the Indian principales whom the Spaniards retained to govern the natives were feeding themselves from the village fields. Another charge was that the governors, alcaldes, regidores, and other officials residing in the towns were committing bad deeds. A third source of trouble was in the laws: generalized ordinances referring to things common to all towns did not take into account local differences. A fourth was the encroachments of Spaniards and the resulting lack of room for expansion.

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10 García Icazbalceta, Colección, II, pp. 532-40.
The first complaint, that of the Indian chiefs living off the propios, should have been the easiest to remedy. In an undated anonymous relation it wisely was suggested that through the use of town maps, as was the pre-conquest custom, all lots would be registered to prevent Indian merchants, barrio bosses, and others from taking more than their share. Whether this method or some other was employed, Father Mendieta in 1565 wrote to Philip II that on communal lands the Indians contributed only to the crown or to an encomendero; it was only those Indians actually living on the lands of the native señores who suffered from double tribute.

Such success, partial as it was, was short-lived. In an ordinance in 1580, for example, it was recorded that an alcalde mayor in the province of Mestitlan declared that not only was each tributary of the village of Chicontepec required to cultivate ten brazas of community land, the custom in New Spain, but each Indian also was compelled to work much larger fields for the native lords. The government weakly compromised by ordering that no Indian could work more than ten square fathoms of land for a chief.

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12 García Icazbalceta, Nueva Colección, I, p. 49.

13 Two years later in 1582 Philip II officially released Indian caciques and principales from this community work. Consejo de la Hispanidad, Recopilación de Leyes de los Reynos de las Indias (Madrid, 1943), II, p. 222. (Book 6, Chapter 4, Law 31).

As for the second reason for lawsuits involving the propios, that of government officials committing bad deeds, complaints fell into two categories. In one, Spanish agents outside of the operation of the propios were accused of undue influence, and in the other, the village bureaucracies were charged with dishonesty. As a solution Father Mendieta suggested that the corregidores, since the towns provided their salaries, should keep strict account of everything concerning the lands in their jurisdiction and that a residencia should be held for officials at the end of each year.

Under Philip III (1598-1621) rigid rules were prescribed for the collection and safeguarding of community funds: one statute permitted the villagers to possess a key to the strong box. Since part of the money was destined to go to the state, the crown was unusually interested in the welfare of its second class citizens.

Diego Ramírez, an early sixteenth century corregidor, symbolized the importance of honest officials in the maintenance of the smooth operation of the propios. In all the towns of his province of Tlalpan, Ramírez explained to every Indian by means of pictures and interpreters what tribute they must supply, furnished scales for weighing produce, appointed inspectors to prevent frauds, stopped extortions by the caciques, saw that the Indians were provided with

15 García Icazbalceta, Colección, II, p. 537.

16 Consejo de la Hispanidad, op. cit., pp. 214-23. (Book VI, Chapter 4).
the necessary area of propios for public expenses, built town halls, and appointed mayordomos, each with a different key, to watch over the community funds. Ramírez proposed, moreover, that his methods be employed in all of New Spain to insure honest treatment of the Indians. 17

Although many government officials in the towns undoubtedly were as honest as Diego Ramírez, colonial sources usually mention another type. In 1569 the Franciscans of Guadalajara accused the alcaldes mayores, corregidores, and tenientes of selling Indian men and women, taking many natives to their estancias for lengthy periods, inflicting large tributes, and spending community funds, while their personal labor consisted of gambling and raising horses for sale. 18 There was so much trouble in the pueblo of Quechulac that the government in 1580 named two mayordomos, one for each faction of the town, to keep records of personal property and real estate belonging to the community. 19 In the same year another official who falsely acquired the lucrative position of governor was punished for misappropriating the public money and lands of the town of Tanguandin. 20

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17 Walter V. Scholes, "The Diego Ramírez Visita," The University of Missouri Studies, Vol. XX (Columbia: University of Missouri, 1946), No. 4, p. 16.

18 García Icazbalceta, Nueva Colección, I, p. 172.

19 Zavala and Castelo, Fuentes, II, p. 325.

20 Ibid., p. 285.
The third source of litigation, the generalized town ordinance, was the inevitable mark of a colonial people ruled from above. In an attempt to bring order out of the chaos following the conquest, the Spanish overlords recognized the value of continuing many Mexican landholding customs, but, unfortunately, they tried to recast the customs into a common mold. Not only were the agricultural propensities of the newly found towns often overrated, but little understanding of the milpa system was shown. In Yucatan, for example, where corn was planted on thin layers of soil, many towns mentioned in the tax lists of 1549 no longer existed in 1579.

The difficulty in attempting to carry out generalized ordinances continued throughout the colonial period. In 1774 the governor of Chihuahua wrote to the viceroy that without a moderation in the laws it was hard to comply with the monarch's order to restrict the Indians to towns to facilitate the teaching of religion and good customs. Among other things, he pointed out the foolish rule that all communities must have a town proper (fundo legal), 600 varas in all directions, around which the Indians should sow their plots. According to the governor, on the mountains and rocky grounds of Chihuahua the application of such a rule was impossible. Often the Indians ran away to find their own fields.  

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21 Landa, op. cit., p. 147.

22 Documentos para la Historia de México, 4th Series, IV, p. 143.
The fourth origin of lawsuits concerning the propios that Father Mendieta recorded was encroachment by Spaniards on the limited lands of the Indian villages. Accordingly, the government, realizing the consequences, placed a number of restrictions on the sale or disposal of public property. In 1586 and again in 1593 Philip II ordered that judges could not sell common, public, or royal lands used by townspeople for a propios and that any surplus plots were to remain public and common. In 1594 it was ruled that the estancias given to Spaniards with prejudice and harm to the Indians must be returned. Philip III in 1609 and Philip IV in 1632 again prohibited the sale of tierras baldíos and any tress or fruit belonging to the towns. A few years later, lands, private as well as community, on which Indians had made improvements were made inalienable. Despite these cédulas and others, in 1747 Ferdinand VI dissolved the junta and Superintencia de baldíos in order to repair the harm experienced with the alienation of vacant areas.

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24 Ibid., p. 36.
25 Ibid., p. 15.
26 Ibid., p. 52.
27 Ibid., p. 16.
One of the main reasons for the failure of legal protection was the inherent contradiction in Spanish colonization: the Indian, a privileged person with inalienable property, was forced to work the lands of the caciques and the mines and estancias of the conqueror. Although the Spaniards recognized the paradox in an ordinance of 1609 which declared that the Indians were to be given enough time to work their own fields and those of the community, the ordinance was not upheld. In 1638, for example, it was reported that the Indians in three villages subject to the town of Tepehpa must serve so long in the houses of the chiefs and bosses of said town that they were unable to attend to the community field in their district. The government, in defense of the Indians, merely ordered that the natives must be paid for their services. One consequence of such decisions was that the Spaniard, especially one with flocks, found it relatively easy to alienate the Indian's idle or unguarded plots.

Another explanation why private property triumphed over communal holdings, despite the legal protection of the latter, was that individualism characterized the colonization effort. From the very beginning of the conquest, large grants of land and densely populated encomiendas were given to celebrated conquistadores and

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their heirs. Although the title of encomendero did not give one full possession of property, merely the right of receiving tribute, many individuals obtained a strong foothold on vast territories. Community fields of villages within the encomiendas, served by dishonest officials and Indians perpetually owing tribute, were put at the mercy of ambitious encomenderos whose methods of ruthless individual enrichment were closely in harmony with the spirit of the times.

The legal status of communal lands within an encomienda was cleared up during a series of lawsuits involving the Marquis del Valle, who had aspired to take over such lands as his supposed manorial right. In one case before the Audiencia of Mexico in 1544, for example, the Marquis was accused of taking over public lands from the Indians of Cuernavaca. At length, in 1546, the crown proclaimed that there were two types of village property: individual inheritances and the communal property of the pueblo. As Silvio Zavala concluded, the communal lands of tribute corresponded to the public lands of Spain rather than that of a Spanish manor.

Nevertheless there was one legal ordinance which inadvertently assisted the opponents of community lands. In the small print in

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30 Silvio Zavala, De Encomiendas y Propiedad Territorial en Algunas Regiones de la América Española (Mexico City: Antigua Librería Robredo de José Porrua e Hijos, 1940), pp. 57-58.
31 Ibid., pp. 71-78.
article 61 of the Royal Ordinances of Intendants, government officials received the right to take back dotations of village land from Indians whom they believed were not complying with regulations. Although the same article guaranteed the continuation of the propios, the power given the intendentes made the economic position of the villager renting communal lands insecure. In contrast to this, honestly acquired private property was safe since according to the cédula of November 1, 1571, only land possessed without just and true title was a part of the patrimony of the crown.

Lawsuits concerning the propios had origins other than the four mentioned by Father Mendieta. In one dispute, for example, the ownership of the community lands of the towns of Tepeyahualco and Axapusco was involved. When the government in the eighteenth century ordered that a democratic election replace rule by caciques and principales, the chiefs, claiming that Hernando Cortés granted their ancestors perpetual and hereditary rights to govern, brought suit. Although the Indian leaders could produce a copy of the grant, the court, after several trials, found them guilty of unlawful possession of the village lands. If the court were correct in

32 Lucio Mendieta y Nuñez, El Sistema Agrario Constitucional (Mexico City: Porrua Hnos, y Cía, 1940), p. 39.

33 Ibid., p. 37.

34 García Icazbalceta, Colección, II, pp. xii-xiv.
its judgment, one may well wonder why the government waited two centuries to initiate the suit.

In a land where legal ownership could not always be proved by land titles, the best judicial decisions were often based on an equitable compromise. In a case involving the Zapotec Indians of Guelatao and Ixtlan, for instance, the natives of the former attempted to change their position of communal renters (terragueros) to communal landholders by claiming that the propios was rightfully theirs. The suit, pleaded by royal officials representing both villages, finally was decided by the Indian Court, the Juzgado de Indios, which retained the status quo of both towns with the important provision that the citizens of Guelatao were guaranteed ample land and water and the security of undisturbed tenancy. Concerning the decision, Howard F. Cline has concluded: "Ownership of lands did not necessarily carry with it political or judicial rights over the tenants." 37

Despite the ominous number of lawsuits that plagued colonial

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35 The editor believed that the copy was authentic; since the conquistadores were men of war, not letters, its poor construction indicates that the audiencia of 1617 made an exact copy of the original of 1537. As for the fact that the original document could not be located, the viceroy's palace was burned in the riot of 1692. Ibid., pp. xv-xvii.


37 Ibid., pp. 182-83.
authorities, there were probably very few squabbles in the less populated areas. In 1599, for example, the natives of the head town of Chomotlán invited other Indians to settle in neighboring pueblos with the inducement that "it has never been known that in the province of Chomotlán there has been a suit on account of lands,... each inhabitant of this district holds, sows, and cultivates what he wishes, and possesses the part which he thinks best;..."

Not only did the operation of village lands suffer from external oppression, there was also discontent within the towns themselves. One common cause of dissension concerned the cultivation of fields for the upkeep of religious functions. Although the transition from communal temple lands under Montezuma to those of the Catholic Church should have been relatively simple, many of the Spanish clergy were bitter in their denunciation of the laziness and insubordination of the natives. As early as the sixteenth century the Franciscan order found itself forced to adopt the punishment of six lashes for all villagers who failed to report for communal work. 39

Whether the Indians' lack of co-operation was related to their previous degree of subjugation or to their agricultural habits, or

38 Simpson, Ibero-Americana, 7, pp. 84-85.

39 García Icazbalceta, Nueva Colección, I, p. 66.
both, it increased as the friars penetrated away from the old Aztec domains. One account from Sonora related that the Indians were supposed to work three days a week for the church, but they did not arrive at work until noon and then they played until three or four o'clock and went home. According to the same source, the Pimas were even forced to work their own lands on the other three days of the week. Another report from that region complained that the natives of the town of Cucurpe and Tuape suffered "from the same sickness," namely, little fondness for work.

The so-called laziness and insubordination of the native villagers seemingly did not shock the encomenderos as much as the officials of the church or government. In protests against the enforcement of the New Laws of 1542, the encomenderos charged, among other things, that the Indians would not cultivate the lands in the Spanish way without permanent masters. They claimed that "if the Spaniards held their encomiendas in perpetuity they would treat the natives as their own property" and "master and man would come to know and understand each other."

40 Documentos para la Historia de México, 3d Series, I, part 2, p. 544.

41 Fernando Ocaranza, Los Franciscanos en las Provincias Internas de Sonora y Ostimuri (Mexico City, 1933), p. 170.

42 Simpson, The Encomienda, p. 175.
After the Jesuits were expelled from New Spain in 1767, the government experimented in operating the order's communal lands. Governors of the provinces named royal commissioners to administer the property of the Jesuits, who previously had obliged the Indians to labor three days each week in a collective manner in exchange for rations. After two years, however, the efforts of the government proved to be a complete failure. The fields remained uncultivated, the churches and houses of the ministers began to tumble, and much sickness and hunger occurred.

Appalled by the situation, Visitador General Gálvez put all former Jesuit towns under new regulations. The missionary padres were to take over the charge of the milpas from the governors and alcaldes, to inform the Indians of the advantages of sowing and cultivating the milpas, to name shepherds for each week where flocks were held, and to see that work, seeds, implements, and food were distributed in the following way: at the opportune time for sowing, the padre was to gather the natives and give them a choice of individual seedbeds; for communal work the governor or alcalde was to supply equipment and oxen and arrange dinner for the whole town; and at all times the sick, aged, and invalid were to be helped as much as possible with community-raised food, while orphans were to

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be cared for by the padre himself.\textsuperscript{44}

Although the propios was as much a Spanish as an Indian institution, the nature of the conquest was such that the Spaniard made little direct use of the institution. Since the conqueror had not come to New Spain to till the soil, the propios never became very important in Spanish towns. Unlike the ejido, which offered both recreational enjoyment and necessary pasturage to the Europeans, the propios could survive only in native villages and Spanish cities with attached barrios of Indians. Even in such localities, as this chapter has noted, the existence of the propios was precarious.

Although statistics are lacking, there are scattered accounts about the propios in the newly established Spanish cities. In Valladolid, for instance, there was little interest in the creation or protection of a propios. Five years after the founding of the city in 1533, the government proposed that one of the regidores be put in charge of the operation of public works, since there was no propios to pay the salary of a special official.\textsuperscript{45} In the 1540's, after Spaniards had entered the city in large numbers, the crown gave a league of land in each direction from the church of the

\textsuperscript{44} \textit{Ibid.}, pp. 729-30.

monastery for communal pastures, woods, and water; but nothing was done to set up a propios. By 1609, however, a propios, perhaps for the natives who worked in the city, must have been established, since a cédula of that year declared that the citizens of Valladolid should enjoy their propios and ejidos without any prejudice. That order was not enforced, unfortunately, because in 1640 royal agents warned the citizens of the city that they must guard their property better and that all land originally belonging to the city must be returned.

The lack of a propios in Spanish cities, especially those requiring much Indian labor for construction, meant that Indians would have to be recruited and fed at city expense. This situation was one of the main reasons for the development of the repartimiento system of labor. In 1538, for example, a royal order conceded the city of Puebla de los Angeles the services of Indians for public works since it had no propios. Viceroy Luis de Velasco warned the city of Mexico in 1544 that the lack of a propios was no reason

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47 Ibid., p. 44.

48 Ibid., p. 45.

49 La Real Academia de la Historia, op. cit., Vol. 10, pp. 434-35.
for not feeding natives who were brought from as far as forty leagues away to labor in the city. Guadalajara, built without royal assistance, also was in want of a propios.

Although there was agitation for a propios in Mexico City throughout the sixteenth century, only an ejido was established. As early as 1531 a regidor of the city informed the Council of the Indies that there was no propios. In the next year a conquistador was refused a gift of land at Chapultepec, a league from town, since it was an ideal location for public recreation (a function of the ejido); but nothing was said about the need for a propios. Later in the century the Indian chiefs and natives of the city requested Philip II to prevent the alienation of the small plots still remaining in their control and, if possible, to restore lands on a communal or private basis; but, by then, the repartimiento of labor was too popular for the crown to deprive Spaniards of lands for the mere sake of the Indians.

There were belated attempts in the latter half of the eighteenth century to promote the custom of communal landholding. Among these was the list of instructions issued by the Marquis de Crois to his

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52 Montoto, op. cit., p. 2.
subordinates in 1771. Although such orders fall into the category of good intentions rather than accomplished deeds, they do provide an insight into the minds of the proponents of the institution of the propios. The following instructions advocated by the Marquis de Crois directly concerned the propios:

II. The first dotations that the commissioners ought to mark out should be the town site and the surrounding land four leagues in all directions or, if convenient, only in two directions. The community milpa will be the best and nearest land, usually eight suertes, each one 400 varas long and 200 wide, on which maize will be grown. If the population is very numerous, the commissioners in conjunction with the padre curate or minister and the natives may extend its dimensions.

III. With the product from the community milpa, village expenses are to be met. Each town must also mark out an ejido for the pasturing of both the flocks of the native citizens and the community.

IV. So that the ministers are decently supported, the commissioner shall assign them five suertes of good land near the town and contiguous to the community property.

V. Afterwards assign suertes to each Indian in the following order: two to caciques and soldiers of the noble order formed by the Marquis de Crois and one to each family head, marking each suerte where they have already made their clearings and have begun their cultivation.

VIII. The Indians ought to have their houses and families in the town on plots which cannot be alienated or mortgaged and will be inherited by descendants. Any suerte left uncultivated for two years will be considered as abandoned and given to another applicant.

IX. All land within the four league radius that is not assigned will be marked off by the commissioner as eventual dotations for newcomers or newly married men that have no land inherited from their parents.
X. If more land is required, the communities may be assigned a site or two for cattle on unoccupied land at an annual cost of two pesos per square league.

XII. When the town is limited to a smaller area, the same prescribed ratio of dotations should be employed. In the following example the town cannot be larger than 20,000 varas in length and 10,000 in width:

<table>
<thead>
<tr>
<th>Land</th>
<th>Ratio</th>
<th>Divide 80 into 20,000 and each suerte has a length of 250 varas.</th>
<th>Divide 80 into 10,000 and each suerte has a width of 125 varas.</th>
</tr>
</thead>
<tbody>
<tr>
<td>community</td>
<td>8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>padre</td>
<td>5</td>
<td></td>
<td></td>
</tr>
<tr>
<td>capitán general</td>
<td>3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>gobernador</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>cacique</td>
<td>2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 soldiers</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>50 families</td>
<td>50</td>
<td>80</td>
<td></td>
</tr>
</tbody>
</table>

Thus, for example, the community milpa would be:

8 x 250 or 2,000 varas long.
8 x 125 or 1,000 varas wide.

XIII. Since Indians prefer the plots on the edge of rivers, divide up such land proportionally without prejudice to a third party.

XIV. Lastly, the community milpas should be marked out on lands closest to the towns, fertile, and least likely to be flooded.

The arrangement of plots in San Miguel de Babispe, a town served by the mission of Santa María Bacerac, followed the pattern of these instructions. Without Spanish settlers to contend with, the natives were able to cultivate the entire river bed on a communal

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54 Documentos para la Historia de México, 3d Series, I, part 2, pp. 708-14.
basis. The next best milpas, those not too high for irrigation, were allotted afterwards for the private use of families. Land which could not be easily irrigated was left idle.  

Unfortunately, the above example was an exception rather than the rule. By the 1780's the alienation of lands, not only communal but private, belonging to the Indians had reached such proportions that an order was issued by the viceroy in 1781 which declared that in no case could Indian lands be sold, rented, or otherwise alienated without good reason. With words that could have described the ending of a Greek tragedy rather than the disappearance of the propios, Manuel Abad y Queipo wrote the king in 1799 that the haciendas have produced "effects very regrettable to agriculture, to the town, and to the state in general."  

The Mexican peons, however, had little interest in studying the reasons for the disappearance of most of their community fields. What they wanted was land, and it did not matter whether it was communal or private. Unrest became so apparent, a royal edict was issued in 1810 that said:

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... as regards the distribution of land and water
it is equally our will that the Viceroy, at the
earliest possible time, shall grant an audience to
the people who are in need of the same, and, ... immediately proceed to the distribution of land with
the least possible damage to third parties,...

Although independence from Spain brought no distribution of lands for the natives, the importance of land hunger was evident in the revolts of the lower classes. The hardship brought about by the growth of population and the loss of good soil to the flocks of the rich families and the Church seemed to require a drastic solution. José María Morelos summed up the situation in his Plan of Tlacozautitlan in 1812 when he charged that there was no reason for "one man owning large tracts of idle land and enslaving millions of people, who as small proprietors could work the land in liberty and with property for themselves and the rest of the citizenry."  

In November of 1812, while Ferdinand VII was held prisoner, the Spanish Cortes attempted to gain support in the rebellious colonies by distributing royal lands and some remaining communal or village lands as private property to the landless. Under this plan, which was not published in New Spain until February 4, 1813, all unappropriated royal tracts and public plots subject to taxation, with trees and without, would be reduced to private property, with

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58 Portes Gil, op. cit., p. 19.

59 Ibid., p. 20.
the vague restriction that village-owned lands that were distributed must continue to supply their annual rents "by the most opportune means." Ownership was to be private, but the new landlords could neither enclose their property to the detriment of cattle paths or give or entail such property to the clergy. Citizens without land and officials and soldiers who aided in putting down rebellions were to be preferred in the distribution.

Such a program showed more understanding of the spirit of the times than of Mexican agriculture. Even if the Indians could have freed themselves from the shackles of debt-peonage, the release of land, much of which was useless for cultivation, even milpa farming, was no solution. A program of rugged individualism could not have brought relief to a colony whose best lands were already seized by a small group of landholders. In many areas, moreover, private property was less compatible with milpa agriculture which necessitated long fallow periods and, at times, communal labor. Private property won out because it harmonized with the accomplished deeds of the privileged rather than the methods of the downtrodden milpa farmer.

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60 Lucio Mendieta y Nuñez, El Problema Agrario de México (Mexico City: Imprenta Mundial, 1934), pp. 88-89.

61 Maza, op. cit., p. 150.
CHAPTER IV

COMMUNAL GOVERNMENT

Communal government suffered a fate similar to the communal village lands which were maintained as its source of revenue. Like the propios, moreover, despite three centuries of promotion and protection by the crown, the administration of community funds and produce was characterized by misrule, dishonesty, and external meddling. For the best insight into the subject, the relation of the development and decline of communal government to the functions of the town, the key unit of Spanish colonization, must be understood.

Father Mendieta, a proponent of the creation of new settlements for Indians otherwise scattered, listed what he considered to be the functions of Indian villages. In a letter (circa 1589) to the Archbishop of Mexico, he claimed that towns were necessary to prevent ancient religious rites, to promote the Catholic faith, to teach politeness and manners, and to provide security through living and planting together in areas subject from attack by bad men and robbers. To the good father these advantages of village life outweighed the unfortunate results of a large scale reorganization: namely that new communities required much labor to construct, Indians became sick when moved from one climate to another, Spaniards acquired the property of natives forced to migrate, and diseases were
spread more easily in places where people lived close together.\(^{1}\) Despite these consequences, the advocates of a resettlement program eventually were responsible for the congregation of over a quarter million natives during the years 1602 to 1605.\(^{2}\)

Father Mendieta also proposed that Indian customs and institutions be adopted to carry out the functions of the native towns. For leading towns and larger pueblos, he suggested a division into barrios of 100 men plus 15 officials of various ranks. Each barrio would have the name of a different saint painted on a standard displayed on the local plaza. The duties of the Indian officials were to defend the members, to direct all to church, to take children to school, to teach the doctrine to adults, to prevent drunkenness and sin, to check on marital status and the conduct of youths who had fled from home, and to make everyone live reasonably. The men, working together in groups of twenty, were to construct their houses, church, casa de comunidad, and other necessary buildings in the village.\(^{3}\)

Concerning the tenure of land, Father Mendieta believed that the natives should be given individual plots for their huts and a sufficient repartimiento of land to sustain their families. Fruit

\(^{1}\) García Icazbalceta, Nueva Colección, V. pp. 90-93.


\(^{3}\) García Icazbalceta, Nueva Colección, V, pp. 86-97.
trees (almost a symbol of private property) were to be planted on part of the grant. The village-owned lands were to be those fields that for ten years previous to the settlement of the town were left uncultivated—often a large area in regions where milpa agriculture was practiced. Where vacant land was unavailable, the bosses and government officials of the pueblo would purchase private property for village use. Spaniards were to be prohibited from taking land from or living within such towns without permission of the king.

Sincere efforts were made to find native villages similar to those envisioned by Father Mendieta. Not only did the crown pass laws which provided for communal town lands, as noted in Chapter III, but supplementary ordinances also established the administrative offices that received and spent the money and produce from the village lands and other communal enterprises. Communal government, in theory, was to be the key means for providing the security through living together that the advocates for the creation of native villages had desired.

It was inherent in the establishment of communal government that the village wealth destined for diverse public services would be held in the caja and casa de comunidad. Except for the village

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Ibid., pp. 94-98.
produce which was too bulky, all the wealth belonging to the communal government was locked up in the caja, a treasury box, which was stored in the casa de comunidad (community house). To prevent frauds, none of the three public servants, the alcalde, mayordomo, or scribe, possessed keys to all three locks on the caja. During the first two centuries of Spanish domination, these administrators were usually guided by their fellow villagers in determining how the money was to be spent and how the produce was to be distributed.  

The wealth of the community came from a number of sources. The most important was commonly the harvest of crops grown on the propios, since every married male in New Spain was required by law to plant ten brazas of land for his respective village government. Another source was the rent charged Indian (sometimes Spanish) farmers who worked village fields for their own benefit. This was often the most valuable source of income; but land tenure in the towns varied so greatly, that some places probably had very little rented land. A third source of revenue was the profit from workshops, usually factories for making woolen cloth, that every native town family was required to work for on a part-time basis.  

5 Moto y Escobar, op. cit., p. 36.  

Occasionally, moreover, some of the public services were able to show a profit. In the first decade of the seventeenth century, for example, one observer recorded that many hospitals in his region were very rich from the careful use of pasture land for the breeding of sheep. 7

Careful supervision of communal government increased village income tremendously. By hoarding produce until a year of poor harvests, for instance, community officials could demand a better market price in the Spanish towns. The renting of village lands, the only basic Spanish addition to the sources of community wealth, also required wise as well as honest officials since idle land was a financial loss. Although milpa agriculture necessitated long periods of fallow, some plots remained idle too long, while others could have been rented for the grazing of well-guarded flocks of animals. In 1749 a royal official advised the governor of Sonora to make the villagers of Navito, Tepuche, Yacovito, Comanito, and Capizato rent the lands that were not sown. With their towns' communally sown fields, plus the rent, the official claimed that the natives could construct or rebuild needed churches, jails, or casas de comunidades. 8

7 Moto y Escobar, op. cit., p. 36.

8 Documentos para la Historia de México, 3d Series, I, part 2, p. 865.
Although detailed laws regulating communal government were not promulgated until the seventeenth century, colonial authorities were convinced early of the value of communal institutions. Viceroy Mendoza, a strong proponent of communal customs, ordered that without any resort to new tax assessments each town should have a propios and a public house (casa de comunidad) for community necessities. The cédula of 1550 which created the Indian Court of Justice, moreover, was a major step in establishing protection for communal funds. Under the cédula the finances of the towns were to be checked by the Hacienda del Estado (treasury department), which named an accountant and paymaster for each audiencia "so that the census was sure and the rents secure." In more blunt language, the public authorities, working closely with the Indian Court of Justice, were to make certain that the Indians' property, subject to taxation, was maintained as a source of revenue. Magistrates also were appointed to investigate rents, to check funds, and to defend the villages in all matters that concerned rents and community lands.

The magistrates (usually fiscals) were appointed in part to

9 García Icazbalceta, Colección, II, p. 137.

10 Carmelo Viñas y Mey, Publicaciones de la Revista de las Españas, 9, El Régimen Jurídico y de Responsabilidad en la América Indiana (Madrid, 1929), p. 38.

defend communal property from fellow officials. Although a number of examples of frauds within the government have been mentioned in the preceding chapter on the propios, the following case almost summarized the possible ways to defraud the native villages. In 1580 the governor of the town of Atucpa was charged with harming the village crops with his flocks, taking 1,000 pesos of common gold from the caja without any intention of repaying, using 200 Indians on his lands instead of sending them to work in the mines, and not furnishing a clear description of the barrios and the valuation of Indian property under his control. 

By the seventeenth century the crown was thoroughly alarmed by the deeds of royal agents, especially corregidores, who were usually responsible for the safe-keeping of the cajas. As a result, better methods of collecting, accounting, protecting, and distributing the funds, those listed in Book VI, Chapter 4, of the Recopilacion de Leyes de los Reynos de las Indias, were prescribed. No one was permitted to take money on the pretext that it would be returned, the keys to the caja were to be possessed by the Indians of the village, no payments were to be made without the consent of the natives, and the corregidores were ordered to make an annual estimate and balance sheet of collections and to describe the condition of the cajas in their district.

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13 Consejo de Hispanicidad, op. cit., pp. 214-23. (Book VI, Chapter 4).
Community authorities were not only ordered to have a book of instructions for operating the village treasuries under the new regulations, but also to keep three financial books, one for expenses and two for a census of property. One of the latter two books was to be divided into sections, one part for a detailed inventory of village property, and the other for a listing of those who held leases, the property involved, and how much rent was owed and paid. The second census book was to be a more general compilation of the names of Indians and communities that were under the corregidor, the amount of rent each was to pay, and for what land the rent was imposed.  

As a further attempt to prevent fraud, if regulations proved insufficient, severe penalties were provided for malefactors in governmental positions. Corregidores who deliberately harmed the cajas and the communities were to be charged with robbery, and if convicted, subject to the death sentence.  

14 Carmelo Viñas y Mey, El Estatuto del Obrero Indígena en la Colonización Española (Madrid: Compañía Ibero-Americana de Publicaciones, 1929), pp. 117-18. 

15 Consejo de Hacienda, op. cit., p. 223. (Book VI, Chapter 4, Law 35). 

16 Viñas y Mey, El Estatuto, p. 118.
culprits rigorously prosecuted, abuses continued; and by the end of
the colonial period, the government itself was directly involved
in fleecing the Indians.

Royal officials were not the only ones preying upon the
communities through a position of influence. In 1556 the Archbishop
of Mexico bitterly attacked the religious orders and Indian chiefs
for establishing cajas and casas de comunidades for personal gain.
One charge was that the Indians were forced to work in the new
communities to support the religious orders in a lavish way, and
what the orders did not consume went to the chiefs who wasted the
funds in drunken feasts and personal pleasures without any respect
for the common good. The caciques overcharged when collecting the
tribute; while everywhere, especially in towns under the control
of the friars, magnificent and unnecessary public works were
constructed at the expense and labor of the native villagers. In
many places, according to the primate, the personal tributes
exceeded the usual tithe "beyond comparison." 17

The Archbishop of Mexico also described the pattern of
establishing such lucrative community treasuries and houses. In
the new settlements the friars first required the Indians to plant
fields, to fish, to raise flocks, or to gather firewood and herbs,
depending on the local resources, and to store the results of their

17 Colección de Documentos Inéditos.... de los Archivos del
Reino, y Muy Especialmente del de Indias, Vol. IV (Madrid: Frias
y Co., 1865), pp. 514-519.
labor in the casa de comunidad. Aside from this, the only important
duty of the Indians was to contribute as much as possible to the
caja. Communal wealth, supposedly for the common welfare, was at
first small, but it grew so rapidly that caciques and governors
were attracted to similar possibilities of self-enrichment. They,
in turn, set up communal treasuries in villages where the religious
orders had not entered. The crown undoubtedly curbed such
practices in the sixteenth century; but often times royal officials
merely replaced the friars as the beneficiaries of the cajas and
casas de comunidades.

Encomenderos were opposed to the financial system of communities
supported by communal funds, especially when caciques or religious
orders were maintained extravagantly. Martín Cortés wrote Philip
II in 1563 that the reason for the small amount of tribute collected
by the crown was that village income was squandered by the friars
and bosses, who through positions of authority, employed the wealth
of the communities for their own eating and drinking. He proposed
that the King, after investigating the lands held by natives,
divide the plots up on a basis of direct tribute rather than work
through the caciques of the town. Although the caciques were con-
sidered a valuable instrument of control, Cortés believed that they

18 Ibid., pp. 515-16.
made false reports on the number of natives in order to have the tribute reduced. According to the Marquis, if the Indians held private rather than communal lands, "they would have more love for them, and not leave them so easily, and would keep their house with more cleanliness and cultivate their lands with more care."  

Martín Cortés also believed, or so he wrote, that although he considered communal services to be just, there was much less need for spending money on them in New Spain than in Old Spain. In his own encomienda, Cortés complained, 80,000 pesos in one year were left to the Indian mayordomos and alcaldes for communal services despite the fact that the Indians without pay built the community and council houses, repaired the roads, opened the ditches, and fetched water from springs. In other words, the Indians did not need public lands to raise money for services that cost nothing at all. Cortés claimed that in Spain, on the contrary, all such community projects had to be paid for by the local citizens. The Marquis, in conclusion, declared that "for an Indian of this land to pay a peso and a half fanega of maize is easier than for a vassal in Spain to pay six reales."  

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19 Ibid., pp. 441-49.
20 Ibid., pp. 441-42.
21 Ibid., p. 445.
Not all communities suffered from large-scale frauds. In some towns the funds and produce of the community, after the tribute to the government or encomendero was paid, were spent for a number of needed services. Among the most important were "hospitals" for the widows, orphans, sick, and invalid. Father Motolinia recorded in the sixteenth century that the Indians, although very poor, were able to construct many hospitals and provide them with supplies and doctors, because when everyone contributed a little, there was much. As an example, the father referred to a hospital built in 1537 in Tlaxcala which could take care of 140 sick and poor by means of daily contributions of food, clothing, and funds from the local natives.22

Another important service supported by public funds centered about the casa de comunidad. Not only was the building employed as the office for village officials who operated the treasury and as a storehouse for community produce and equipment, but also as a non-profit making hotel for travelers. Every casa had, or at least was supposed to have, a topile (sometimes spelled topil), an employee who supplied it with firewood, water, and fodder, swept the floors, and provided dinner, guides, and beasts for visitors. The alcalde mayor or judge was to make certain that the prices for such services were marked at the gate of the village.23


The hotel service was so abused, however, that many casas were abandoned in the latter half of the eighteenth century. Taking advantage of the set prices, the travelers demanded much more food and service than they were supposed to receive. In many areas, moreover, the casas acquired a bad reputation from a practice of furnishing prostitutes for the guests. The powerful visitador José de Galvez, aware of the situation, advised the missionaries in Sonora to discourage the natives from continuing to maintain the casa de comunidad.²⁴

The community school was another public service available in some towns, especially those maintaining friars. Although the emphasis was put on the training of the sons of caciques in special seminaries and colleges supported by the treasury, attempts were made to educate the poorer children in religious matters. In the sixteenth century the Franciscan order named an aged man for each barrio to be in charge of gathering the children for such instruction.²⁵ Two centuries later, in 1774, the governor of Chihuahua suggested to the viceroy that in each town a school with a teacher supported by community funds should be set up to teach young natives to read and to write in Spanish. The teacher, exempt

²⁴Ibid., p. 728.
²⁵García Icazbalceta, Nueva Colección, I, p. 63.
from other occupation, was to teach only those capable of working. In New Spain, however, the amazingly high illiteracy rate was scarcely affected by religious instruction, or the mere suggestion of the governor of Chihuahua.

In the middle of the eighteenth century some leading colonials made a last-ditch attempt to strengthen the cajas and casas de comunidades. Although the effort was in vain, correspondence between the proponents and high governmental authorities did present a clear description of the operation of the two institutions in the ideal village. The following suggestions were part of a long list of instructions advocated in 1751 by a firm believer in the need for cajas and casas de comunidades:

I. Make all the villagers meet in the casa de comunidad on the eve of the new year to name a governor, two alcaldes, two regidores, two alguaciles, a fiscal mayor, a fiscal menor, constables, and other officials.

II. These officials must watch over and repair the property of the community and the brotherhoods which augment the devotion of the Church.

III. Experience has shown that the best way to acquire community property is to sow one or two milpas of maize on community land at the founding of the village. With the profit the village will occasionally purchase oxen, cows, and other things. All the funds are due "to the sweat and work of the Indians" and in no way to the missionaries who

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26 Ibid., p. 728.
may not alienate anything. The wealth from flocks and fields are to be divided up among the towns served by the mission.

IV. The mayordomos who are in charge of the wealth of the communities and brotherhoods are to make an annual accounting and must possess a branding iron to mark the flocks of the village. Countermarks are also to be branded on those of individual families to prevent intra-village disputes.

V. All the towns are to contain a decent casa de comunidad for council meetings and elections. A topil or alguacil del pueblo must be named to clean the casa and maintain its facilities as a lodging house.

VIII. Each town should sow a fanega of maize annually for the maintenance of the parson’s house at the fee set by the royal rates.27

Because these and similar proposals were never adopted, forty years later the condition of village treasuries was so critical that a sweeping investigation was ordered. In 1791 royal officials were instructed to find out whether community land was worked communally or privately and whether the natives possessed house plots within the town proper; to list the different types of land held, the crops that were planted, and the amount of each; to check how the funds in the treasury were spent and guarded; and, finally, to make sure that each Indian annually contributed ten brazas of maize or one and one-half reales to the community caja.28

27 Ibid., pp. 643-44.

28 Fabila, op. cit., pp. 46-47.
Despite such instructions, with the unceasing decrease in community lands, many cajas and casas de comunidades were unable to survive. During the residencia of Revilla Gigedo in 1799, for example, it was brought out that before that great administrator became viceroy, in the city of Mexico the rents from the propios and public enterprises were in arrears, the funds of the city depleted, and the public granary did not have "un grano de maiz." 

The best description of communal government during the late colonial period was made by Alexander von Humboldt, who with keen understanding wrote:

The privileges which the laws seem to concede to the Indians are of small advantage to them, perhaps they are rather hurtful. Shut up in a narrow space of 600 varas (500 metres) of radius, assigned to an ancient law to the Indian villages, the natives may be said to have no individual property, and are bound to cultivate the common property (bienes de comunidad). This cultivation is a load so much the more insupportable to them, as they have now for several years back lost all hope of every being able to enjoy the fruit of their labour. The new arrangement of intendencias bears, that the natives can receive no assistance from the funds of the communality without a special permission of the Board of Finances of Mexico. (The communal property has been farmed out by the intendants; and the produce of the labour of the natives is poured into the royal treasury, where the oficiales reales keep an account, under special heads of what they call the property of each village. I say what they call property, for this property is nothing more than a fiction for these last twenty years. The intendant even cannot dispose of it in favor of the natives, who are wearied of demanding assistance

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30 Ibid., p. 204.
from the community funds.... The money of the caxas de
comunidades is so habitually considered as having no
fixed designation, that the intendant of Valladolid sent
in 1798 more than a million of rancs to Madrid.... to
aid in the prosecution of the war against Englandi)31

The loss of financial control by the communities was no
cause for mourning in most towns. With the disappearance of village
lands in the eighteenth century, there were few cajas and casas de
comunidades worthy of name. Only in isolated mountainous or marginal
soil areas where milpa agriculture necessitated co-operative customs
did communal government survive.

CHAPTER V

THE EJIDO

The only communal institution of the Spaniard completely novel to the Indian was the *ejido*. Without native domesticated flocks that required large pasture lands, there was little reason for its existence. In the two centuries before Cortés, moreover, the rapid growth of population had created such a land shortage that there was little land available for its development when the conqueror arrived in New Spain. Despite these contrary factors, the *ejido* became so popular during the colonial period that when the Spanish Cortes decided to distribute the remaining remnants of the *propio* in 1812, "ejidos necessary to the towns" were to be maintained. 1

In contrast to its twentieth century denotation, the *ejido* in the colonial era had a very restricted meaning. In that age the term applied only to the village-owned lands which were communally used without charge by local citizens for pasturage and recreation. Those who have noted a close similarity between the *ejido* and the *altepetlalli* (communal lands of the ancient *calpulli*) have not clearly defined the *ejido*. Although some exceptions existed, communal *milpas*, woods, or waters were apart from the *ejidos*.

To add to the confusion, ejidos were often listed apart from prados, dehesas, and pastos (three types of community pastures) in the property belonging to colonial towns. This practice undoubtedly was due to the fact that slight differences in meaning were involved: the ejido was employed as a place for recreation as well as pasturage, while the other terms had connotations that defined special characteristics. Some animals needed much better pasture ground than others, and so communities that possessed several pastures divided their flocks accordingly.

The creation of the ejido was not simply the result of the importation of domesticated animals. Those who owned the largest flocks had no interest in such an institution. The ejido grew out of the government's desire to maintain the Indians as well as the Spaniards in towns. The purpose was both idealistic and practical. Most colonial authorities seemingly believed that in the towns the Indians could not only be more easily governed, exploited, and converted to Catholicism, but that through civic institutions for the common good, they could also be made to live happy and prosperous lives.

After the conquest of Tenochtitlan, the first official notice concerning the institution of the ejido was in 1523 when the government ordered that ejidos be set up so that the towns might have enough space for recreation and pasturage of flocks. The regulation also charged officials to see that the ejido was marked out first
in all communities in which cultivated fields were nonexistent. Since no dimensions were given, local authorities apparently were to use their own judgment in delimiting the area. Not until 1573, in fact, was there any government suggestion as to the approximate size of an ejido.

It was probably a wise policy to leave the details of the establishment of the ejido to community officials. Many areas, especially in the first half century of conquest, were so densely populated that the creation of ejidos was often at the expense of necessary crops. In 1532 Bishop Ramírez de Fuenleal wrote that pasture land ought not be set aside for any town, university, or private person, because for the most part the towns were poor in lands, and ejidos would only aggravate the situation. Without a radical decrease in native population, the Bishop believed that pastures would never be of any benefit to New Spain.

Although reduced population did eventually ease land hunger in much of Mexico, the crown was too impatient to wait until such time. In 1533, before a policy of separate settlements of Indians and Spaniards was adopted, an ordinance was issued declaring that woods, pastures, and waters of the towns, as well as woods contained in grants (mercedes), ought to be common to Spaniards and

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2 Maza, op. cit., p. 5.
3 García Icazbalceta, Colección, II, p. 168.
Indians. In the woods, moreover, anyone could freely pick wild fruit, carry away plants, and cut wood for personal use.  

The section of the law of 1533 dealing with woods located in grants was probably prompted by a dispute between the Marquis del Valle and government agents over the status of natural resources within the former's encomienda. In 1532 the Emperor with council accord wrote to the Audiencia of Mexico that woods and pastures were public, even those of the Marquis del Valle. The latter agreed to compromise by making woods, pastures, and waters in his grant available for use by Spaniards. Despite such unfairness to the natives, the crown accepted the solution in April, 1533.

During the next two decades the royal government emphasized its decision to strengthen communal customs and holdings. In 1536 an ancient Spanish law was introduced to the New World which declared that after all crops were gathered, the lands His Majesty had sold or given away, except for public pastures and commons, were to be available for the grazing of animals. Another law issued in 1541, and reissued in 1550, affirmed that all woods, pastures, town districts (terminos), and waters were for the free enjoyment of all citizens.

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4 Consejo de la Hispanidad, op. cit., p. 58. (Book IV, Chapter 17, Laws 7, 8, and 14).

5 La Real Academia de la Historia, op. cit., p. 135.

6 Ibid., p. 170.

7 Consejo de la Hispanidad, op. cit., p. 58. (Book IV, Chapter 17, Law 6).

8 Ibid., p. 57. (Book IV, Chapter 17, Law 5).
One logical reason the crown continued to force the adoption of ejidos was that the villagers, who also raised crops, guarded the animals carefully; while, on the other hand, the flocks from Spanish estancias were a constant threat to the crops of the native communities. The problem was explained by Viceroy Antonio de Mendoza to his successor Luis de Velasco. Viceroy Mendoza pointed out that while the principal riches of many Spaniards were their herds, these same animals greatly injured the natives. The Viceroy even admitted that he was obligated to remove flocks from Spanish estancias in three valleys with Indian settlements, although the Spaniards "claim that I have destroyed them, and they are right,... it is a pity, but I could do no other thing." In 1550 the Emperor, claiming "there is enough land that harm is unnecessary," ordered officials to force Spanish encomenderos whose flocks were destroying the crops of Indian villagers to use vacant royal tracts. It was probably the result of such decrees that the Mesta, the most bitter foe of the protectors of the ejidos in Spain, was transplanted to the colonies.


The policy of establishing ejidos, the best method of preventing harm to crops, was selfishly opposed by Spanish hacendados, even those who recognized its merits. When Hernando Cortés was Governor and Captain General of New Spain in 1524, he ordered that ejidos be set up for animals awaiting slaughter or shipment, that there should not be any pasture of any kind within a half league of any village cultivation, and that any farmer might kill stray beasts and collect damages from the owner. Before seven years had passed, however, the authorities of the city of Mexico accused Cortés, then the Marquis del Valle, of appropriating ejidos that he, himself, had marked out.  

In 1563 a series of ordinances was promulgated that strengthened the institution of the ejido. Watering places, roads, paths, and necessary ejidos, the latter to be set aside before the town itself, were made mandatory requirements for the location of the new Spanish settlements. The ejido was to be large enough, moreover, that even with an increase in community population, there would remain enough space for the citizens to amuse themselves and to leave their flocks without danger. Within the ejido, pastures were to be designated for oxen, horses, animals fattened for slaughter, and flocks that each settler must maintain by law.*

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An example of such a settlement was the town of Lagos, which was established in 1563 at the request of the Audiencia of Guadalajara as a safe community for Spaniards who wished to rest on their travels between the city of Mexico and the mines of Zacatecas. Before any grants of land were given to Spaniards who wanted to live in the city permanently, the government ordered that the areas necessary for ejidos be marked out without prejudice to natives already settled on the site.\footnote{14}

Although ejidos at first were often established at the expense of cultivated fields, the authorities of the city of Mexico were worried over a situation quite contrary by the last third of the sixteenth century. Indians and Spaniards daily were taking over parts of the ejidos to the detriment of local citizens who were greatly in need of free and unoccupied pasture lands. The ayuntamiento in 1573 attempted to halt the practice by ordering that a plan be drawn up that would be kept in the archives where everyone could readily find out the location of the scattered ejidos.\footnote{15}

The encroachments on the ejidos of Mexico, the great capital city, may have made it obvious to authorities that ejidos in native villages were in even more danger of extinction. Whatever the reason,\footnote{14}

\cite{Secretaria de Gobernacion, Publicaciones, XIX, pp. 423-24.}

\cite{Manuel Toussaint, Federico Gomez de Orozco, and Justino Fernandez, Planos de la Ciudad de México (Mexico City: XVI Congreso Internacional de Planificación y de la Habitación, 1938), p. 23.
an ordinance was released in 1573 which stated that sites on which pueblos were formed should have, among other things, an *ejido* of a league in length where the Indians could pasture their flocks without mixing them with others belonging to Spaniards. The reference to length was an attempt to prevent Spanish *estancias* from crowding the native towns; while the lack of a dimension for width undoubtedly meant that it left to the discretion of the villagers to decide how much of the communal lands would be allowed for cultivation rather than pasturage. As an example of sincerity, five years later when the Dominicans purchased a site near the pueblo of Chapultepeque, the *ayuntamiento* of Mexico passed an act which prevented the loss of native community lands to either the order of St. Augustine or St. Dominic.

Since *milpa* agriculture usually necessitated biennial movements from one plot to another, the careful pasturage often resulted in the increased fertility of the soil, the boundaries of the *ejido* undoubtedly were shifted in and out of the cultivated *propios*. A loose boundary system was possible if the flocks were guarded closely by the village-appointed shepherds. After the harvests were gathered on the *propios*, moreover, all the community-owned

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lands were turned into pastures. Although village practices varied, such an explanation, coupled with the fact that no dimensions were ever given for the width of ejidos, may be the reason for the many conflicting definitions of the institution.

Another possible reason for the lack of a width measurement for the ejidos in native pueblos, especially in the sixteenth century, was the high cost of the initial purchases of animals for breeding. Only in Spanish cities was rapid stocking of the ejido possible. As late as the seventeenth century, for example, a colonial observer specially recorded that in the towns of Tampico and Pánuco there was much breeding of cattle and mules because the animals were given to the peaceful Indians. In less fortunate native communities, the most important value of the ejido was its use as a barrier to Spanish estancias and as a place into which the propios could expand.

Confusion over the original purpose of the ejido was greatest in Spanish cities lacking a propios, yet employing Indians in public works. Since the city authorities were forced by law to feed the natives serving in the repartimiento, sections of the ejido were given to the Indians for the cultivation of wheat, maize, vegetables, and fruits. Under this system the workers helped to provide their own sustenance while away from their Indian villages. In 1580,

for example, the government ordered the city of Tacuba to continue to maintain this practice.\textsuperscript{19}

In summary, the sixteenth century can be pictured as a partial compromise between two forces, the weak humanitarian policies of many leading clergy and secular authorities and the practical and selfish designs of hacendados and local officials. For every request, such as the one by the Archbishop and Bishops of New Spain in 1565 that the natives be allowed enough land for ejidos and cultivation,\textsuperscript{20} there were accomplished deeds of fraud and illegal possession of community lands. In 1570 Diego de Robles, writing of the injustices in native towns, recorded that around Mexico City the Indians had no fields for flocks or cultivation; in nearby Tenayuca and Tulitan, for example, the community lands were held by two officials, and the Indians had been forced to leave for other places. Diego de Robles charged in conclusion that some Spaniards "take Indian lands with titles, others just take possession."\textsuperscript{21}

During the seventeenth century the ejido was in such a state of transition that references to its condition in any specific

\textsuperscript{19} Zavala and Castelo, Fuentes, II, p. 382.


\textsuperscript{21} Colección de Documentos Inéditos..., de los Archivos del Reino, y Muy Especialmente del de Indias, Vol. XI (Madrid: José María Pérez, 1869), pp. 6-11.
town would prove very little. About all that may be noted is that in spite of depopulation and more stringent laws of protection, the existence of the ejido tended to become more precarious with the rapid growth of Spanish haciendas. By the end of the century it was obvious that the institution was definitely on the decline. This was especially true in native villages where the ejido suffered the same fate as the propios. Since the ejido was already pasture land, it was probably considered a more inviting prize by some grasping ranchers than the cultivated plots of the propios.

Although the following story concerns the town of Parros, fourteen other towns in the immediate vicinity of Parros experienced similar tribulations. By the beginning of the eighteenth century Parros had lost its ejidos to a nearby marquise, who, nevertheless, until 1713 allowed the villagers to pasture and water their flocks freely or at a small price. In that year, however, the marquise acquired the right from the Audiencia of Guadalajara to kill by lance any village animals found on her lands or to charge a high ransom for any beasts apprehended. Since the villagers "did not possess a palmo of land outside of the town, it was the same as condemning them not to have flocks." As a further step in ousting

22 Documentos para la Historia de México, 3d Series, I, p. 394.
the natives from the district, the marquise sold water for the irrigation of vines at 2 pesos per 2½ hours. In desperation the citizens of Parros raised 210 pesos for the Jesuits to attain a formal charter with a dotation of lands and waters, but the attempt was unsuccessful. 23

By the middle of the century the loss of public lands had become so alarming that the government in 1754 charged its officials to act in moderation in the sale and arbitration of unappropriated tracts, the last source of lands available. Lands conceded to towns "for pastures and ejidos," moreover, were not to be altered but maintained, "reintegrating in them what has been usurped" and granting major extensions according to the needs of the town. 24 Such instructions may have been soothing to the consciences of royal authorities; but, considering the difficulties involved in carrying out the program, the instructions were of little practical value.

Some towns did acquire reserve tracts belonging to the crown, but such lands, baldíos, were not legally theirs. In part of Sonora, for example, where everything between the valleys was baldíos, 25 the natives went into the mountainous areas to survive.

23 Ibid., p. 394.
24 Orozco, op. cit., p. 61.
In a list of settlements in Sonora compiled by Pedro Corvalan in 1788, the native pueblo of Comupa held only plots of baldíos, while the nearby hacienda of Pivipa owned its property. Pedro Corvalan also noted that although Comupa held much pasture land and the hacienda of Pivipa none at all, the hacienda had many more animals than the town. Apparently, the villagers were employing poor ground for milpa agriculture at the same time the hacienda owner was using his rich soil for pasturage.

An excellent description of the plight of native communities can be found in reports made by roving friars. In the last quarter of the eighteenth century, for example, Padre Rivas made a survey of the Pimería Baja. The following summaries of the conditions in the towns served by missions were taken from the padre's report:

I. Mission of San Ignacio de Navas

Onabras—houses are small and dispersed; lands are poor; has a communal pasture for cattle and horses and a community field planted with maize, beans, and lentils.

Nuestra Señora de los Dolores de Tonichi—has small milpas; houses are scattered; communal property consists of a rancho with a flock of oxen, some cattle, and small fields of maize.

San Miguel de Soyopa—has good lands; huts are badly organized; communal property consists of a rancho with only two or three pairs of oxen.

II. Mission of San Francisco de Borja de Tecomipa

Tecomipa—there are private milpas of wheat, maize,
and beans near a brook, but natives are content to do very little; huts are dispersed; the communal property consists of 200 or 300 head of sheep, 4 or 5 pairs of oxen, 6 or 7 horses and mules, and a small milpa of wheat and maize which is cultivated communally.

III. Mission of San José de Pimas

San José de Pimas—has good lands but little water; population made up from poor deserters; no community property.

San Miguel de los Ures—there are some privately owned animals; community pasture lacks flocks; the padre has a milpa of wheat and maize which is communally attended.

Santa Rosalía—huts are unorganized; communal wealth consists of 10 or 12 beasts of burden, 22 or 23 pairs of oxen, 23 sheep, and a little milpa of maize.

IV. Mission of Nuestra Señora de la Asuncion de Opodepe

Opodepe—land is sterile and too uneven for cultivating; some villagers go 2 or 3 miles away to sow private milpas near a brook; communal property consists of a rancho where they say there are some cattle, 30 or 40 sheep, 6 or 7 pair of oxen, 15 or 20 cows, 10 or 12 beasts of burden, an orchard of fruit trees, and a small milpa which is communally cultivated.

Nuestra Señora del Rosario de Nacameri—has a good pasture, several pairs of oxen, fruit trees, and a small milpa of wheat and maize; on the community pasture are 300 to 400 sheep that belong to the pueblo of Opodepe.

V. Mission of Los Santos Reyes de Cucurpe

Cucurpe—mountains are sterile, but valleys can be cultivated; there is but one pair of oxen in the town; on the community pasture are 500 sheep, 16 cattle, and 9 horses and mules; they say there are some ranchos containing livestock belonging to the commons of the mission also.

San Miguel de Tuape—is located on a plan near a brook; the communal pasture has 70 cattle, a small field of maize and wheat, and an orchard whose fruits are common to all the town.27

27 Ibid., pp. 733-53.
There were several reasons Padre Rivas did not refer to the communal pastures in Pimeria Baja as ejidos. One was that the towns were too poorly organized to have definite areas marked out for public pasturage and recreation. Another was that fields capable of supporting flocks were too distant, scattered, and small to conform to the regulations found in colonial ordinances. A probable third reason was that most of these pastures were located on baldíos, royal tracts that by definition could not legally belong to the communities.

In contrast to the importance of raising flocks in the Indian towns visited by the missionaries in Pimeria Baja, Padre Rivas, in a similar report on Pimeria Alta, did not record that any town served by a mission was in possession of flocks or communal pastures. Lacking oxen and employing the milpa system, it was not strange that most of the villages had fields which were sown communally:

I. Mission of Los Santos Angeles de Guevavi

Guevavi—has level lands near a brook where the villagers cultivate milpas of wheat and maize as well as a small community plot.

II. Mission of San Ignocio de Caburica

San Ignacio—sow both private and communal milpas of maize, wheat, and beans.

III. Mission of Nuestra Senora de los Delores del Sario

Sario—in a valley with a brook and good lands; some
cultivate private milpas; wheat, maize, and other crops also sown collectively.

IV. Mission of San Pedro y San Pablo de Tubutama

Tubutama—has good lands where some Indians cultivate their own milpas; communal fields also sown.

V. Mission of San Francisco del Ati

Ati—has fertile lands, but there are few natives who want to sow either individual or communal plots.

VI. Mission of La Purisma Concepcion de Caborca

were safe from floods; both private and communal milpas are sown. 28

which were safe from floods; both private and communal milpas are sown. 28

With the growth of haciendas and Church estates in the latter half of the colonial period, the condition of towns in Pimeria Alta became characteristic of most native communities more fortunate in geographic setting. Deprived of ejidos, the villagers resorted to milpa agriculture on scattered plots of marginal soil. Thus, a hundred years later when revolutionists called for a return to the ejido way of life, the term came to include communal lands of cultivation as well as pasturage.

28 Ibid., pp. 757-64.
CHAPTER VI

EXPERIMENTS IN COMMUNAL LIVING

Closely related to the communal institutions already described were the experiments with communities patterned on early Christian beliefs or the Utopia of Sir Thomas More. Unlike the institutions of the Indian and Spanish villages, however, these experiments were based on abstract concepts of communal life rather than established customs. The most famous were the hospital-towns of Bishops Quiroga and Zumárraga, the colonization of Nuevo Santander, and the frontier missions during the latter years of the colonial period.

The first attempts to find ideal communities were, ironically, the result of earlier efforts to make the aborigines of the New World adopt the customs and outlook of the Spaniard. In 1532, for example, after the experiment at Bayamo in Cuba to teach the Indians "to raise cotton, maize, chickens, and pigs as a Spanish farmer would" proved a failure, the government concluded that it was impossible to teach the natives to be like "Christian farmers in Castile."\(^1\) Upon this assumption, as well as the belief that the character of the Indians was simple and pure, humanitarians

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developed plans for the creation of an unique Indian society based on Christian communism.

Utopianism, a way of life completely different in spirit to that of sixteenth century Europeans, had an especially strong appeal to the clergy. Imbued with the Church's enthusiasm to indoctrinate the countless infidels of America, many clerics dedicated their lives to saving the bodies as well as the souls of the converts. In a land whose economy had been disrupted, its inhabitants at the mercy of Old World diseases, and its lands and resources rapidly falling under the dominance of conquistadores, the task was far from easy. It seemed to some that only a drastic change to a society stressing love and co-operation like that of the first Christians could enable the natives to survive the onslaught.

Of all the clergy who fell under the spell of Christian communism, the most famous and successful was Vasco de Quiroga, a well-read Spaniard who had been greatly impressed by Sir Thomas More's Utopia. Although Quiroga did not agree with the doctrine of the noble savage which first found expression in the Utopia, he did believe that the vices of the natives were not deeply ingrained and that More's solution was entirely applicable to New Spain. After witnessing the plight of the aborigines in the first decade after the conquest, Quiroga decided to dedicate his life to the
establishment of "utopias" in the colony.

In 1530 Vasco de Quiroga was appointed a judge in the 2nd Audiencia of Mexico, a high salaried position which enabled him to carry out his designs. Unable to wait for a reply from his petition to the Council of the Indies in 1531 that the Indians ought to be reduced to villages run by friars in the manner of "the primitive Church,"

Quiroga spent his own funds for land near Mexico City to found the hospital-town of Santa Fé. Again in 1533, while serving as visitador in Michoacán, he founded a similar community. By 1535 in Información en Derecho, Quiroga could not only argue for the adoption of native utopias but also point out the success of his own experiments.

After being named the Bishop of Michoacán in 1537, Vasco de Quiroga influenced the founding of many other hospitals. Most of these, if not all, however, were not based on the extreme Christian communism advocated by Quiroga. They were merely village enterprises operated on the proceeds from the communal harvests and public rents described in the chapter on communal government. Bishop Quiroga has also been given credit for the

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2 Silvio A. Zavala, La "Utopia" de Tomás Moro en la Nueva España y Otros Estudios (Mexico City: José Porrua e Híjos, 1937), p. 4.

3 Ibid., pp. 4-7.
establishment of communal missions in western Mexico;\textsuperscript{4} but it seems more probable that the Bishop was only one of a number of leading clerics (most of whom were more practical) responsible for such missions.

In the two hospital-towns that Bishop Vasco de Quiroga personally founded, the ordinances of 1565 closely resembled those listed in More's Utopia. All land was communally held and enjoyed with the special provision that the right of usufruct (an inherited one) to orchards could be held by the citizens. Moreover, no property could be alienated. The population was divided into two segments, one urban and one rural, but each was to become familiar with both city trades and agriculture so that interchange of positions was easily accomplished. The urban citizens lived in the hospital, a large building in which each family was under the control of its eldest male; and the rural families who were furnished with coas and other necessary equipment meanwhile labored among the scattered milpas. Both groups contributed the fruit of their work to a common pool from which all, including the inmates of the hospital unable to work, were fed and clothed.\textsuperscript{5}


\textsuperscript{5} Zavala, La "Utopia" de Tomas Moro, pp. 7-10.
The permanency of Quiroga's efforts were attested to by Juan Joseph Moreno, an eighteenth century historian. In his *Vida de Don Vasco de Quiroga Primar Obispo de Michoacan*, first published in 1766, Moreno described the two hospital-towns as so successful that the descendants of the 30,000 Indians originally settled "continued the narrow path of evangelical perfection." The inhabitants still clung to the basic distribution rule of "to each according to his needs." The right of each family to have its own orchards or gardens, the ancient exception to the distribution rule, was also maintained. Thus, after more than two centuries, the hospital-towns still were operated according to the regulations laid down by Bishop Vasco de Quiroga in 1565.

In tribute to Bishop Vasco de Quiroga, Rafael López has written that the Bishop's insistence that each community cultivate an art or industry brought about enduring civic co-operatives. Many years after the death of Vasco de Quiroga, for example, the following towns were famous for a product: Capula for wood carvings, Teremendo for footwear, Tzintzuntzan and Patamba for pottery, and Gucupao for beautiful wooden boxes. At the time of the tribute (1932), moreover, the citizens of Urupan and Paracho were still

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7 Ibid., Index, p. 6.

8 Ibid., Index, pp. 7-8.
producing celebrated chocolate cups and musical instruments respectively.  

Less idealistic but just as zealous in defending the natives was Juan de Zumárraga, the first Bishop and Archbishop of Mexico. Before departing for New Spain in 1528, Zumárraga was given the title of Protector of the Indians, a position which was not to endear him to the conquistadores of the colony. For four years the Bishop suffered from false charges by the Audiencia of Mexico, which allowed him to do little but teach. It was not until 1534, after he returned from a two year journey to clear his name in Spain, that Zumárraga was able to accomplish much in behalf of the aborigines.  

At first it seemed that Archbishop Juan de Zumárraga had accepted one of the solutions of Bishop Vasco de Quiroga—namely, that of hospitals to combat the terrible plagues of the sixteenth century. Within a short time after his return from Spain, Zumárraga established three infirmaries and the hospital of San Cosme y San Damián, the latter especially founded for the victims of venereal diseases. Such deeds were only stop-gap measures, however, in the prelate's plan to integrate the natives into the newly developing

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11 Ibid., p. 270.
economic organization of the colony. Convinced by his earlier struggle with the Audiencia of Mexico that extreme idealism was not the best course of action, the Archbishop condemned the New Laws of 1542 as impractical legal guarantees and emphasized, instead, the improvement of economic conditions.

Juan de Zumárraga’s views were outlined in a report to the Council of the Indies in which he not only pointed out the causes of New Spain’s difficulties but also suggested ways to improve the colony. Although the Archbishop probably exaggerated the potentialities of Mexican resources, some of his proposals had merit. First of all, Zumárraga blamed the shortage of foodstuffs mainly on the poor methods of agriculture employed by the natives—a belief that finds adherents in the twentieth century. Unfortunately, the solution was not as simple as the Archbishop believed. Even if the Indians had been granted the use of the horse and supplied with other domesticated animals and agriculture equipment, the heavy population of the 1530’s necessitated the use of the milpa system on marginal soils, a type of farming requiring crude implements.

Unwilling to accept in full the program of Bishop Quiroga or the proposal of Archbishop Zumárraga, the regular clergy, especially the Jesuits and Franciscans, found merit in both. The friars admired especially the former’s emphasis on the separate development

12 Carlos E. Castañeda, "Fray Juan de Zumárraga and Indian Policy in New Spain," Ibid., p. 305.
of natives and Europeans and the latter’s plea for economic assistance. They believed, however, that the foundation of native development must be the communal customs with which the Indians were familiar. The first missions of western and northern Mexico stemmed more directly from the friar’s experiments with the caja and casa de comunidad in the sixteenth century than the accomplishments and suggestions of the secular Bishops Quiroga and Zumárraga.

Almost two centuries after the death of Quiroga and Zumárraga, a famous frontier soldier decided to base the colonization of Nuevo Santander, present day Tamualipas, on communal institutions. Unlike the friars who had learned that the most successful institutions were those based on deep-rooted customs, Colonel José de Escandón, organizer and commander of the expedition, attempted to force the Spanish settlers to adopt an extreme form of communal living to which they were unaccustomed. Although the colonization was strongly militaristic and not characteristic of New Spain as a whole, it does provide a good case history of sixteen years of communal tenure in more than twenty settlements.

In 1746 Colonel Escandón was commissioned by Viceroy Revilla Gigedo to begin preparations for the occupation of Nuevo Santander, a strategic but uninviting area that bordered the northwest coast of the Gulf of Mexico for several hundred miles. After two years of exploration, Escandón recommended the establishment of fourteen Spanish villages and a suitable number of missions, the latter to
be administered by the College of Guadalupe de Zacatecas. In December, 1748, approximately 3,300 soldiers and settlers left Querétaro in a caravan that was increased later by many others from interior towns and missions.  

From the very beginning of the trek northward, colonists, unhappy with Colonel Escandón's attempt to establish communal settlements, proposed that each settler receive an individual estate. Escandón, convinced that survival in the enemy-infested region demanded a program of communal ownership, however, replied in 1755 that he did not make a private division of territory for three reasons: no matter how good a site was, there was never enough land for all, and some would become angry over any preference to others; once the plots were distributed, new immigration would cease and colonists could not combine cultivation and breeding; and, finally, he, personally, had too little time for a careful division of land and there was no intelligent person to whom he could entrust the job. Disagreeing with his commanding officer, Captain José Tienda de Cuervo believed that a formal division of land should be made, since the original settlers were not only stimulated to join the expedition for that reason, but it would


prevent the usurpation of large tracts by some of the more aggressive citizens. The captain claimed, moreover, that with the profit acquired from the sale of surplus lands, the owners could make much better use of their remaining property.15

The growth of the colony was hindered more directly by Indian hostility and unfortunate accidents than the system of landholding. In the first settlement the flocks of the mission Indians were destroyed by Indian attacks,16 and in the third and fourth towns founded, the sheep pastures were ruined by fires.17 The sixth and seventh communities established were subject to flooding, the latter so badly that the mission natives were forced to resettle in 1757.18 Despite such experiences, advocates of private ownership put the blame for the lack of success on Colonel Escandón's insistence on communal land tenure.

As for the poor conditions in the missions, a thorough report was made by Captain Tienda de Cuervo in 1757. Among other things, the housing situation was found deplorable. In some mission


17 Ibid., pp. 74-75; Secretaria de Gobernación, Publicaciones, Vol. XV, p. 292.

communities the Indians had been given patches of land within the
town so that subordination and doctrination could be more easily
accomplished, but at other places the Indians had built huts
wherever they farmed, often over a league away from the mission.
There also was no land given to the ministers in the name of the
Indians; the lots for agriculture were only temporarily assigned. To
improve the colony Captain Tienda de Cuervo suggested that since
the Indians had preference over the settlers, other and better lands
should be given to them in some communities when a formal division
of property was made. 19

Finally persuaded that private estates were the principal
incentive for colonization and the only way of rewarding the settlers
for living among barbarous people, Colonel Escandón ordered the
first distribution of private grants in 1764. 20 Unfortunately, the
results were not gratifying. In the spring of 1765, for example,
an official, after carrying out Colonel Escandón’s new orders,
complained to the Viceroy that the settlers were establishing
ranchos which decreased the united front against enemies. The
official added, moreover, that he had decided to delay the further
granting of private lands because some recipients preferred their
interests to the public good of the colony, believing that dis-
19 Ibid., pp. 8-9.
20 Ibid., pp. 197-98.
21 Ibid., pp. 229-30.
Despite such opposition to the granting of private lands, by 1768 distribution was well under way. In Santander, the capital of the province and the home of Colonel Escandón, for example, the ejidos, special pastures, and propios, extending a league from the center of the village, were marked off in February, 1768. The remaining land was divided into eighty-six portions, seventy-six of which were given out under stipulations of ownership requiring each grantee to inhabit his property, to build a house in town, and to dwell there in organized society for at least two years. Among other rules, no plots could be alienated to clergy or prohibited persons, and no more than three plots could be acquired by anyone. The surveyors were instructed also to note the quality of land, to choose the most suitable areas for ejidos, pastures, and propios, and to consider the merits of the individual, designating the estate of Colonel José de Escandón before any other. Among the special provisions were the requirements that royal horses could be pastured on the communal holdings, a caja de comunidad had to be established from the product of public lands, and the area which each Indian must cultivate was

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22 Enrique A. Cervantes (ed.), Documentos Relativos a la Villa de los Cinco Señores, Capital del Nuevo Santander, Hoy Jiménez, Tamaulipas (Mexico City: publisher by author, 1947), pp. xvii-xviii. The town was dedicated to the cinco Señores, but Santander was its true name.

23 Ibid., p. 123.
Thus, the transition from a communal to a private system of landholding was an incomplete process. The ejidos remained for all to use, the propios was established for the expense of community services, and the mission lands were still cultivated on a communal basis. After almost two decades of experimentation with complete communal tenure, the province of Nuevo Santander reverted to the customs of the other regions of New Spain.

The settlements in the latter years of the colonial era that most closely resembled native utopias were the frontier missions. Although the friars still attempted to base their missions on established communal customs, they found that as they penetrated farther away from the older centers of civilization, the natives often had little or no experience in sedentary communal living. Because of the uninviting land and climate, the inhospitality of the natives, and the small amount of funds available for the average mission, moreover, frontier utopias were often small and impoverished.

Although the missions on the frontier were usually poor, there were important degrees of poverty. Writing in the first decade of the eighteenth century about his experiences in California, Padre Juan María described a mission founded by the Marquis de Villapuente which was comparatively prosperous. The padre recorded that

Ibid., pp. 131-53.
the settlement had all that was necessary for the communal needs and care of the Indians, such as fields, gardens, orchards, vines, and flocks. The other and more common extreme of wealth was described, for example, in a report on a small village near the Sabine River in eastern Texas. The community consisted of five miserable huts with thirty-six persons of all ages and a padre whom the King paid 450 pesos annually. The natives cultivated the land, although with great disgust, and put the harvest in a common granary which the padre distributed with care so that grains remained for future sowings and any surplus could be sold to pay for the expenses of the mission. This settlement, once very rich with farm land, had been reduced in the late colonial period to the possession of a small herd of oxen, 50 cattle, and 100 goats.

One important factor preventing the growth of prosperous missions was the friction between friars and local officials. As late as the latter half of the eighteenth century, there was no indication of any widespread co-operation. During that time, for instance, there was a report from the Mission of Mochicahui in Sinaloa which claimed that the Franciscan padre suffered insults and violence from the alcalde mayor of Fuerte when the former asked the natives to repair the church and to work the communal fields.


26 Documentos para la Historia de México, 3d Series, I, p. 434.
of the mission. Hostility was so evident that the Bishop of Sonora proposed the abolition of the position of alcalde mayor in 1784.

In defense of communal agriculture in the missions of Sonora, Ignaz Pfefferkorn, a German friar, wrote in the late eighteenth century that "communal sowing was so necessary a precaution that without it not a single mission could have survived." The padre declared, moreover, that the Indians were fed and treated well and not forced to work the three days each week as the law decreed—"three or four weeks sometimes passed without their being burdened with any work at all." 

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27 Fernando Ocaranza (ed.), Biblioteca Histórica Mexicana de Obras Inéditas, Vol. 16, Crónicas y Relaciones del Occidente de México (Mexico City: Antigua Librería Robredo, de José Porrúa e Hijos, 1939), part 2, p. 74.


30 Ibid., p. 275.
An excellent picture of communal mission life was given in the reply of the Mission San Carlos Borromeo to a questionnaire of the Spanish government in 1812:

Inasmuch as these missions are still classed as a recent conquest, they do not make any formal contract (with the Indians). All work in common; all eat and clothe themselves from the communal stores. This is entirely under the supervision of the missionary fathers. The Indians are instructed to live as rational individuals. Besides the communal lands and corn-fields, a parcel of land for a small kitchen-garden is allotted to some, to get them accustomed to individual effort. But the net result is that some day the woman in a fit of anger pulls out the shoots of corn, squash, etc., saying that she has planted them. Her husband does likewise. Therefore, in these matters they behave like children of eight or nine years, who as yet have not acquired a constant or steady disposition.  

What success the experiments in communal living did achieve was due to the milpa system of farming. Whether forced or freely organized, communal agriculture was a virtual necessity in many areas of New Spain. In the final analysis, individualism triumphed in spite of - rather than because of - the nature of Mexican agriculture.

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