

The *encomienda* and the optimizing imperialist: an interpretation of Spanish imperialism in the Americas

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Abstract During the conquest and early administration of Spain’s American colonies the most controversial policy was the granting of temporary *encomiendas*, or temporary rights to collect tribute from Indians, as a reward for conquest. The contribution of the *encomienda* to the destruction of Indian populations was recognized by Spanish authorities at the time, yet the Crown persisted in introducing the most destructive form of the institution during the early stage of each colonial venture for over 200 years. Because the Crown financed the defense of its colonial possessions against other European imperialists, an addition to colonial capital, by increasing the return to an aggressor, imposed a defense-cost externality on the Crown. Since the cost of defending additional assets was higher in the Americas than in Spain, an efficient policy would have been to encourage the rapid transformation of human services into durable assets that could be transported to Spain. According to our defense-externality argument, the temporary *encomienda* and its parallel modification in each colonial episode becomes a rational Crown policy. The administration of Spain’s distant colonial possessions, especially the adjustments in the restrictions on *encomiendas*, required information about the local conditions, and we argue that the Church, as designated “protector of the Indians,” may have played an unwitting role in the communication of information.

Keywords *Encomienda* · Defense externality · Spanish colonial policies

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1 Introduction

The *encomienda* evolved as the pervasive institution for subjecting and exploiting conquered Indian populations during the Spanish colonization of the Americas. While many

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scholars who have studied the period of Spanish colonization of the Americas have pointed out the destructive consequences of the *encomienda*, none have been able to offer a satisfactory, rational explanation of the institution, including why the Spanish Crown (specifically, the Crown of Castile) authorized its implementation in every new colonial venture for more than two centuries.¹ This paper presents an explanation that has not appeared in the literature, and which we believe gives a better understanding of the observations of historians who have studied this period. Our central argument is that the *encomienda* was an essential part of an imperial organization that served the wealth-maximizing interests of the Crown better than alternative institutions, given the circumstances that the Crown faced in acquiring, controlling, and exploiting the resources of its distant colonial empire in the Americas.

The *encomienda* was a royal grant that permitted the grantee (*encomendero*) to receive tribute in goods and labor services from the Indians comprising the *encomienda*. *Encomiendas* were initially granted on a temporary, nonhereditary basis, and were nontransferable. The justification for the *encomienda* was that the Indians owed service to the Crown, and the Crown temporarily transferred that service obligation to a Spaniard, usually as a reward for his service to the Crown. Thus, the cession was the usufruct of a royal prerogative, with the tribute owed the *encomendero* in commutation of the tribute otherwise owed the Crown. In return, *encomenderos* were obliged to provide for the protection, education, and religious welfare of Indians. An *encomendero*, however, was *de facto* not held responsible for the condition and size of his *encomienda* when the grant expired. Vacated or expired *encomiendas* were either reassigned or placed under the control of Crown officials as *corregimientos* with tribute paid to the Crown. The *encomienda* was not a landed estate and involved no ownership of land.

Prior to the discovery of the New World, the *encomienda* had been used in Medieval Castile to reward the commanders of the Military Orders who participated in the Reconquest of Spain.² Castilian *encomiendas* consisted of temporary grants by the Crown of Castile conferring jurisdiction over territories recaptured from the Moors. Specifically, the Crown ceded the right to collect a number of taxes payable by the inhabitants of the territory subject to the *encomienda*. The American version of the *encomienda* originated in Hispaniola when Columbus assigned *repartimientos*, or distributions of Indians, to the original settlers to provide labor services for them. The American *encomienda* was institutionalized under Columbus's successor, Nicholas de Ovando, the Governor of Hispaniola from 1502 to 1509. In the Americas, typically, Spanish conquistadors were initially assigned *encomiendas* as rewards for their participation in conquests. From the time it was introduced in the Antilles, the *encomienda* was the subject of strong criticism both from Church officials and the Indians, as well as the *encomenderos* themselves who favored making the ownership of *encomiendas* perpetual and hereditary. While the Crown wavered in support of the *encomienda* at different points in time, it always supported the introduction of the institution in the early stage of each colonial venture.

The apparent irresolution of the Crown in supporting the *encomienda* has led to the following explanation of this institution. Since the institution, and variants of it, existed in Spain and the Canary Islands prior to the conquest of the New World, it has been argued that

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

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

the institution was simply grafted to the Americas.³ But, when the conquistadors abused their power in the colonies, the Crown ultimately removed this source of power from the conquistadors.⁴ The Crown was unwilling to yield permanent dominion over the indigenous population to the conquistadors and their descendants, because it feared the establishment of a new and powerful nobility in the Americas. According to this explanation, events in the Americas are assumed to have followed the same historical forces that had occurred previously in Spain: a process of enlightenment and centralization of power in the Crown.⁵

Nevertheless, some historians questioned the aims of the Crown in supporting the *encomienda* over so long a period. Since the *encomienda* had the stated aim of protecting the welfare of the Indians, it is difficult to understand why it was reintroduced at the beginning of each colonial episode during the entire period (1501–1786), given its incentive for *encomenderos* to more rapidly convert Indians into assets having a more lasting and transferable ownership title. That incentive led to the institution's acknowledged contribution to the decline of the Indian populations.⁶ Most historians⁷ have viewed the Crown as inconsistent, aiming to protect the native Indians while at the same time yielding to the short-term interests of the conquistadors and the Crown's own financial demands. No one seems to doubt that the Crown wanted to preserve the Indian populations⁸ and, at the same time, restrict the political and economic power of the *encomenderos*.

The analysis offered in this paper suggests that the Crown placed the Indians in *encomienda* because that policy increased the wealth of the Crown by encouraging the destructive conversion of the Indian population into another form of wealth. Furthermore, the subsequent regulations introduced by the Crown to modify the incentives created by the institution and the ultimate replacement of the *encomienda* by particular taxes (the *mita* system) are consistent with that wealth-maximizing behavior. In our view, it was in the Crown's interest to encourage the transformation of the human capital of the Indians into other forms of more defensible capital at a faster rate than would have occurred under a system of perpetual *encomiendas* (or slavery) and lump-sum taxes.

2 The institutional background

The expeditions of conquistadors in the New World were privately financed enterprises, imposing no risk to the royal treasury and dependent upon the Crown of Castile only for legal authority. The Crown authorized conquest ventures through a formal contract or patent

³This view was first discussed in Chamberlain (1939), but it has been accepted by subsequent historians. See, for example, Haring (1952: 40–44); Gibson (1964: 58); and Roel (1970: 89).

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

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

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

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

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

known as the *capitulacion*.⁹ This contract granted the *caudillo* (or leader) the exclusive right to conquer a particular territory, specified the concessions in the newly conquered territories that could be assigned as rewards to the participants, and enunciated the rights reserved for the Crown.¹⁰ After obtaining an exclusive territorial patent, the leader then acted as a promoter of conquest, enlisting soldiers and acquiring financing for the enterprise. A conquest venture was formed on a voluntary basis with a written charter specifying the personal and financial obligations of the participants, and the distribution of shares to the spoils of conquest (Gongora 1975: 12–16). The assignment of *encomiendas* was a concession in the *capitulacion*, with the Crown reserving the authority to approve requests for *encomiendas*. The *encomiendas* typically constituted the most coveted reward, and were usually reserved for the principal participants and conquistadors who contributed meritorious service. An *encomienda* could not be sold, mortgaged, or borrowed, and the relocation of an *encomienda* required a Crown directive. The Crown was to receive a share of the spoils, designated as the Royal Fifth.¹¹

The Crown exercised royal authority over its American possessions and implemented its colonial administration through the Council of the Indies.¹² Subject to final approval by the Crown of Castile, the Council of the Indies held supreme authority over all administrative, legislative, judicial and ecclesiastical matters relating to the Americas. The Council negotiated and signed the *capitulaciones*, issued the royal confirmation of grants of *encomiendas*, resolved disputes arising from claims to *encomiendas*, and was responsible for the regulation of *encomenderos*.

In return for the right to collect tribute from the Indians in his *encomienda*, an *encomendero* was obligated to provide for the spiritual and temporal welfare of his Indians and, in addition, was required to provide military forces (men, arms, and horses) which could be summoned by local authorities to suppress Indian rebellions or oppose external threats.¹³ The composition of the tribute payment between the services of Indian labor and agricultural outputs was usually decided through bargaining between each *encomendero* and the respective Indian chief (*cacique*).

⁹The *capitulaciones* derived from the Castilian custom that a conquistador who served the Crown by conquering territory without placing a financial burden on the royal treasury received a prescriptive right to a reward in the territories conquered. Thus, the Crown conceded some of its sovereign rights and agreed to confer hereditary titles of nobility with special military powers and governmental authority over new territories. While the *capitulacion* was a fairly standard contract, the specific terms were negotiated. See Elliott (1963: 44–50) for a discussion of the medieval antecedents of the *capitulacion*; also, see Gongora (1975: 4–7).

¹⁰The contracts between the Crown and the conquistadors are discussed in detail by Zavala (1935: Chaps. 9 & 13).

¹¹See, for example, Haring (1952); additional references are numerous.

¹²Prior to the establishment of the Council of the Indies as an autonomous royal council in 1524, Spain's American possessions were the responsibility of the Council of Castile. Within the Council of Castile, Juan Rodriguez de Fonseca was the councillor entrusted by the Crown to administer colonial affairs from 1493 to his death in 1524 (Elliott 1963: 164–165). Fonseca acted for the Crown by negotiating and signing the *capitulaciones* and issuing licenses to engage in colonial trade (until 1503 when commercial affairs were administered by the *Casa de Contratacion*, or House of Trade, in Seville), and all colonial government appointments and royal orders for the Americas were either issued or approved by him. Fonseca was also in control of assigning *encomiendas* and of regulating them.

¹³The discussion which follows in this section is derived from the works of Haring (1952), Miranda (1952), Simpson (1966), and Zavala (1973). Some authors have at times emphasized that the *encomienda* took different forms in different regions; see, for example, Lockhart (1969: 427) and Keith (1971: 436–437). For our discussion, the similarities across regions and times are sufficient to allow us to use the institution as a unit of analysis.

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

In all colonial episodes there was a similar transformation of the *encomienda* before its eventual termination. During the initial stage the *encomienda* was temporary and effectively unrestricted in the treatment of the Indians, in the next stage the Crown attempted to regulate the types of labor services (the so-called “personal” services) that the Indians could provide under tribute obligations (such as work in mines and factories, and in transportation activities), and ultimately regulations were imposed that prohibited the use of Indians for the provision of personal services. It was generally recognized that some of these personal service activities contributed greatly to the destruction of Indians.¹⁴ The Crown also imposed regulations on the amount of tribute that *encomenderos* could collect. It shifted from a system of lump-sum taxation for whole villages to a system of uniform head taxes. In addition, the Crown restricted the reassignment of *encomiendas*, a restriction that increasingly favored the transfer of vacated *encomiendas* to the control of Crown authorities (the *corregidores*). The success of these restrictions in transferring control depended upon local conditions, with success coming first in Mexico but much later in Peru, Chile and other colonies.

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

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

3 The *encomienda*'s incentive system

It is useful to distinguish the **temporary** *encomienda* as an ownership arrangement from what is usually understood to be slavery. For our purposes the important distinction between the *encomienda* and slavery is that an *encomendero* has a temporary, non-transferable claim to an unregulated share of the outputs from a stock of human capital. In addition, an *encomendero* was not in practice held responsible for the final condition of the Indians in his *encomienda* at the time his ownership terminated. For slavery an owner has a legally exchangeable right to an unregulated share of output from the human capital of slaves for

¹⁴This was not only true for observers at the time, but for all modern historians of the period. The most destructive activities were the use of Indians in mines and as carriers. The Laws of Burgos (1512) and the New Laws (1542) imposed extensive restrictions upon the use of Indians for “personal services”.

life (and also usually of the descendants of the slaves). An additional constraint under the *encomienda* was that *encomiendas* could be relocated only by obtaining a Crown directive. It will not be surprising that the Crown encouraged colonial officials initially to locate *encomiendas* in the proximity of mines.

Given an *encomendero's* time-limited right to use an initial stock of Indian human capital, there is a greater incentive to transform the human capital of Indians into other forms of wealth, the ownership of which is both more durable and transferable. This incentive is weaker under slavery. For example, though the forced provision of transportation services by Indian carriers contributed to higher death rates, or shortened lifetimes, the *encomendero* would have transformed the human capital of the Indians into values added to other commodities. In the case of slavery, the transformation of human capital into other forms of capital is borne by the slave owner in the form of a reduction in the future value of the slaves. However, if there were a known, pre-assigned successor to an *encomienda* and if contracting was costless, the future *encomendero* would negotiate with the present *encomendero* to preserve the resources, and thus the incentives under the *encomienda* and slavery would be roughly equivalent.

Furthermore, under costless contracting and with competition for unassigned *encomiendas*, the initial *encomendero* would face the same incentives as under slavery if the authority reassigning *encomiendas* were to sell vacated *encomiendas*. Because the amount offered to obtain an *encomienda* would depend upon the quantity and quality of its human capital, and since the incumbent *encomendero* can affect the human capital by decisions regarding the amount and form of the tribute, the constrained behavior of the incumbent *encomendero* would thus jointly maximize the wealth of the assigning authority and the *encomendero*. The same behavior would occur that would maximize the wealth of the owner of the same quantity of human capital under slavery (assuming the relocation of human capital under slavery has the same restrictions as under *encomienda*). Hence, in this hypothetical case, the Crown would maximize its wealth by selling the right to be the Crown's representative to reassign vacated *encomiendas*.¹⁵ In the absence of such costless contracting, and since an *encomendero* was not responsible for the amount or condition of the human capital in his *encomienda* at its termination, more transforming of human (subsistence) capital into other forms of capital would occur than under slavery.

The destruction of the Indian populations under the Spanish *encomienda* system in the Americas is generally accepted as a fact by historians of the period. This suggests that it was either too costly to monitor and enforce the contracts to alter the incentives for *encomenderos* sufficiently or that it was too costly to compensate the Crown representative to obtain a vacated *encomienda*. Another possibility would be the uncertainty of the duration of the institution itself. An expectation that *encomenderos* would not be compensated for their *encomiendas* if the institution were abolished, as was the case in the Antilles, would induce a more rapid and destructive exploitation of the Indians held in *encomienda*. Hence, at first sight it appears that the Crown could have increased its wealth from its American colonies by allowing slavery (or perpetual *encomiendas*) and collecting lump-sum taxes from *encomenderos*. The behavior of the Crown in supporting the institution of *encomienda* is puzzling when we note that the conquistadors requested, in every colonial episode, that

¹⁵There is some evidence that the bribing of officials actually occurred during the colonial period, at least in Cuba and Chile. For the Cuban case, see Paso y Trancoso (1939: 127–131). The Chilean case is of greater interest, because a person could actually inherit an *encomienda* by paying a sum of money to the governor—this was known as *dejacion*; see Feliu Cruz (1941: 173–174).

the Crown allow the enslavement of Indians or at least that the *encomiendas* be made perpetual (and offered substantial payments to the Crown in some cases), yet, the Crown refused all of these requests.

4 An optimizing imperial organization

This section presents an interpretation of the Crown's colonial policies regarding its American territories. We assume that the Crown's objective was to maximize its wealth by establishing a colonial organization that would ensure the efficient acquisition, control and exploitation of the capital in its colonial territories.¹⁶ The central thesis is that the *encomienda* was an important part of the Crown's wealth-maximizing colonial organization given the particular circumstances confronted in the Americas during the sixteenth and seventeenth centuries, and the extent to which the *encomienda* system served to efficiently increase the Crown's wealth is far greater than has been recognized. If the Crown behaved as a wealth-maximizing imperialist, optimizing colonial policies would have efficiently incorporated the Crown's American territorial claims into its tax base and the colonial capital stock would have been subjected to a tax system that maximized the present value of tax revenues net of colonial administration costs. Colonial administration activities include tax collection, maintaining control of its colonies (typically defense), and preventing various activities in colonies that would have reduced the Crown's tax revenues. Whether a colonial possession was lost to another military power or became independent through rebellion would have been equally damaging to the Crown, since its tax base is reduced by the same amount in either case.

The Crown's effective territorial sovereignty in the Americas rested primarily on its military deterrence of other European powers. Since the Crown organized the acquisition of its American colonies by assigning to principal conquistadors an ownership interest in the spoils of conquest, with the Royal Fifth going to the Crown, the Crown's participation was

¹⁶While our approach assumes that the contractual relationships in an organization are devised by a fully informed, rational calculator seeking a solution to a well-defined optimization problem, there is an interpretation of this approach that relies on predicting the types of organizational structures that are most likely to be successful, and that therefore tend to arise through experimental and imitative behavior. Decision makers need not either anticipate or perceive environmental changes nor ascertain their institutional implications; they need only initiate organizations that have become viable whether through conscious calculation, miscalculation, or experimentation. Moreover, even if the relative success of specific organizational structures is not perceived, more efficient organizations have greater and longer survival probabilities and therefore tend to dominate long-run time series and stable cross-sectional observations. This approach was first developed by Alchian (1950) and extended to competitively evolved social institutions through a combination of Darwinian and Lamarckian evolution by Thompson and Hickson (2000: esp. Chaps. 1 & 2). Even Adam Smith's discussion of the Navigation Acts ([1776] 1937: 429–431) and the critical role they played in the defense of Great Britain seems to parallel this approach.

It is not impossible, therefore, that some of the regulations of this famous act may have proceeded from national animosity. They are as wise, however, as if they had all been dictated by the most deliberate wisdom. National animosity at that particular time aimed at the very same object which the most deliberate wisdom would have recommended, the diminution of the naval power of Holland, the only naval power which could endanger the security of England. . . . As defense, however, is of much more importance than opulence, the act of navigation is, perhaps, the wisest of all the commercial regulations of England.

Also, see Thompson (1979) which formally develops a national defense argument for peacetime subsidies to expand the production capacities of certain domestic, defense-relevant industries.

limited to its commitment to punish unauthorized transgressions, thus reducing the cost to a principal conquistador of controlling conquered areas. A person who was able to obtain the Crown's consent to organize conquest activities within a specific area then acted as a promoter of conquest, enlisting soldiers and arranging financing for the conquest venture(s). The contract imposed by the Crown established a joint venture in which a principal conquistador (and the subordinate participants in the conquest venture) incurred the costs of conquest, while the Crown established a commitment to defend against foreign aggression, and the two parties shared the returns from the colonial venture. The characteristics of this joint venture describe what is familiar in agriculture as sharecropping. By analogy, the Crown was the landlord, while the conquistadors were sharecroppers. From the viewpoint of the Crown, a rational commitment for controlling the activities of conquistadors would have depended upon the extent of the Crown's information regarding conquest opportunities, the ability of the Crown to monitor the actions of colonial military forces, and the preferences of the Crown relative to its conquistadors toward risk-bearing. It is, at first thought, plausible that a conquistador would be subject to greater financial risk than the Crown,¹⁷ so that it would be rational for the Crown to employ conquistadors under a salary contract.¹⁸ However, it is here assumed that conquistadors possessed superior information about immediate local conquest opportunities and that it would have been prohibitively costly for the Crown to monitor and direct of the conquistadors' activities from Spain. The significant financial risk facing conquistadors would have made it less profitable for the Crown to sell off conquest rights for lump-sum payments since the Crown was the natural financial risk bearer. Therefore, given the asymmetry in information and the cost of monitoring conquistadors, it would have been rational for the Crown to impose **all** of the initial costs of conquest upon the conquistadors and for the Crown to share the **detectable** returns.

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

The Crown faced the additional problem of defending its colonial possessions from potential foreign aggressors. A capital tax (or equivalent institution) which discriminates against the excessive accumulation of capital in the colonies (capital that is coveted by rival military powers) is required to provide efficient incentives for the owners of colonial

¹⁷We assume that both the Crown and individual conquistadors have utility of wealth functions which exhibit decreasing absolute risk aversion. Under decreasing absolute risk aversion, as a person becomes wealthier he is more willing to risk a given absolute wealth change, and thus, he is more willing to undertake a given risky investment (that is, for given odds, the risk premium for the investment decreases as wealth increases). Thus, since individual conquistadors would be poor relative to the Crown, the Crown would be better able to bear the financial risk of a specific conquest venture. An intuitive basis for assuming that the degree of absolute risk aversion declines with wealth is that the Crown has the ability to hold a portfolio of conquest ventures while an individual conquistador would likely have his financial participation limited to only one venture, so that the Crown could reduce the financial risk of conquest activities by pooling a large number of independent conquest ventures. Consequently, if there was also symmetric information and perfect observability (no moral hazard problem), the Crown would have been the natural risk-bearer for each conquest venture. See Arrow (1970) for a discussion of the implications of decreasing absolute risk aversion.

¹⁸Rewarding colonial military leaders under salary contracts act to shift the financial risks of conquest ventures onto the Crown. Batchelder and Freudenberger (1983) use this argument to explain the emergence of centralized, bureaucratic states in Europe during the early modern period.

capital.¹⁹ Assuming that the expected payoff to a military rival from expropriating all or part of Spain's colonial empire depends upon the Crown's defenses and the value of coveted colonial capital (determined by the conquistadors), an increase in coveted colonial capital would, by raising the payoff to a potential aggressor, impose a defense externality in the form of a higher defense cost to the Crown. Thus, by taxing colonial capital at a rate equal to the incremental cost of defending a unit more of that capital stock, the Crown could create efficient incentives for both the acquisition and transformation of colonial capital. For example, to reduce his tax burden, an owner of enslaved Indians might transform some Indians into another form of capital (or consumption goods) that is less costly to protect or less coveted and therefore taxed at a lower rate. Thus, it may pay a slaveholder, for example, to transform some of his slaves into products that can be easily moved to locations where the Crown had a relatively lower defense cost, and thus, that capital would be efficiently taxed at a lower rate. This kind of capital tax system would reduce the Crown's overall defense costs by reducing the amount of defense-relevant, coveted capital in its colonies (Thompson 1974).

The cost of implementing such a system of efficient capital taxes could be reduced by an alternative institution that had the same allocational incentives. Combining temporary *encomiendas* with a system of taxes on colonial imports and exports could achieve roughly the same incentives as an efficient capital tax.

The temporary *encomienda* can now be rationalized as an efficient, wealth-maximizing institution for the Crown if (a) the cost of defending additional capital in its colonies was higher than (b) the cost of defending it in Spain plus the loss from transforming Indian human capital into exportable capital. By encouraging the more rapid transformation of colonial wealth into outputs that could either be consumed or transported to Spain where the Crown had a lower defense cost, the temporary *encomienda* yielded (approximately) the same solution as would have occurred under a system of efficient capital taxes. Since the incentives facing an *encomendero* depended both upon his remaining tenure and on the restrictions limiting the tribute he could impose upon Indians, the Crown could adjust the rules under which the *encomienda* operated to achieve incentives roughly equivalent to those under a system of efficient capital taxes. While some transfer of product from the colonies to Spain would have occurred under other institutions, the *encomienda* system encouraged higher production rates of transportable outputs and greater exports to Spain during the initial stages of colonization.

We now extend the analysis to explain the timing of the transformation of the temporary *encomienda* in each colonial episode. In particular, if the Crown faced rising costs of short-lived defenses of the colonial capital stock, then the hypothetical, efficient tax rate on colonial capital would fall as the colonial capital stock declined. The efficient equivalent of a reduction of an explicit tax could be obtained by lengthening the tenure of *encomienda* grants as Indian populations declined, and imposing restrictions upon the use of Indians in activities especially harmful to their lives and limiting the composition and amount of the tribute. That is, by altering the tenure of ownership and the amount and composition of

¹⁹The principles of this efficient capital-tax system have been developed by Thompson (1974) in a general equilibrium model in which a government is committed to deter aggression against the nation's capital stock. In this model, an increase in a country's stock of aggressor-relevant (or coveted) capital acts to increase the return to a potential aggressor from attacking the country, thus requiring costly additional defense efforts by the government. Since a government provides for the collective defense of the property of its inhabitants, the defense externality arising from an increase in coveted capital is eliminated by imposing a capital tax on each unit of coveted capital equal to its incremental defense cost.

tribute, the Crown could adjust the incentives of *encomenderos* to reduce the rate of conversion of the Indian labor inputs into other outputs.

Defense costs in the short-run would rise if, in order to establish a credible commitment to defend an acquisition of colonial capital, the Crown had to shift the deployment of naval capability, thus reducing its capability elsewhere. Moreover, although very large overhead investments in immobile port fortifications could have reduced the marginal cost of defense, owing to the upfront expense required, it was not until after 1555 that the Crown undertook the investments in fortified ports (Havana, Cartagena, and San Juan) and created a flotilla for the defense of American waters.

5 The Church and the *encomienda* system

While the preceding sections assumed that the Crown had the ability actually to impose a given incentive structure, “reform” required a central authority to have the ability to detect punishable violations by colonial subjects. Thus, to insure that colonial subordinates face the optimal (from the viewpoint of the Crown) incentives, the Crown must monitor the conditions in each colonial possession. Our purpose in this section is to expound the hypothesis that the Crown employed the colonial Church, in addition to its own official representatives, to monitor the conditions in its colonial possessions. Furthermore, we note that the Crown granted economic interests to the colonial Church organizations so that their wealth depended inversely upon the wealth of the *encomenderos*. The only recourse for Church officials was to appeal to the Crown to impose additional restrictions upon the behaviors of *encomenderos*.

Even if the economic conflicts between Church officials and *encomenderos* were created by accident, these conflicts served the interests of the Crown because the Church officials continually reported on colonial conditions in seeking the support of the Crown for additional restrictions on *encomenderos*. The ecclesiastical grants made by the Crown also created conflicts among the Church organizations themselves, which can be explained as a method of verifying the information received by the Crown.²⁰ Utilizing the clergy to monitor conditions in a colony was especially useful in the period before the Crown could establish its own bureaucratic organization to do the monitoring. Finally, since our previous analysis implies that the *encomienda* would be modified and eventually abolished as the human capital of Indians was reduced, the monitoring by the clergy of colonial possessions provided useful information which the Crown had to know to efficiently alter the incentives faced by *encomenderos*.

Before analyzing how the economic conflicts between Church officials and *encomenderos* served the interests of the Crown, we briefly digress to note the extent to which the Crown controlled the Church in the Americas. Immediately following the discovery of the Americas, the Crown obtained Papal concessions (1493 and 1501) granting control over the ecclesiastical tithes in the Americas to the Crown. In return, the Crown assumed responsibility for the operation of the Church and the religious conversion of the Indians. In 1508, another Papal concession assigned to the Crown “in perpetuity the exclusive right to found cathedral and parish churches, mission stations, monasteries and hospitals, and to submit, in accordance with canon law, the names of candidates for ecclesiastical appointments and

²⁰The Crown used two additional institutions to check the accuracy of information: the *residencia* and the *visita*. See Haring (1952: 138–146) and Scholes (1946).

benefices, from those of lowest ranks to bishops and archbishops” (Gongora 1975: 119–120). In addition, the Crown was able to extend its control over the distribution of tithe revenues to non-ecclesiastical purposes. Under the Agreement of Burgos (1512), “tithes were to be paid on agricultural and livestock products, not on ore production; half of this revenue was to go to the bishops and cathedral chapters; the other half was to be divided, in fractions of one-ninth, between the upkeep of the fabric of churches, the hospitals, the clergy with the cure of souls, whereas two ninths went to the Royal Treasury” (Gongora 1975: 120). In this way, the Crown obtained direct and absolute control over the Church organizations in the Americas in all non-religious matters.

One basis for strong opposition of the Church to the *encomienda* system was the morally and ethically disapproved treatment by *encomenderos* of their Indian subjects. While Church officials expressed moral and ethical opposition to the *encomienda*, these arguments were also consistent with the economic interests of the Church. Under the tithe structure imposed by the Crown,²¹ the abolition of the *encomienda* system would have increased the wealth of the Church. Specifically, the output produced by Indians in *encomienda* was generally exempted from the tithe; only that part of the output collected by *encomenderos* as tribute in the form of agricultural outputs was subject to this Church tithe. Therefore, if the outputs of the Indians in *encomienda* had been subjected to the Church tithe directly, the income of the Church would have risen.

This can be illustrated in a simple example. If an *encomienda* community’s total agricultural output value were the equivalent of 10,000 gold pieces, and if the equivalent of 5,000 gold pieces were the tribute paid to the *encomendero*, the Church was entitled to receive 10 % or 500 gold pieces from the *encomendero*. But if the **total** output of the community (rather than just the *encomendero*’s share) had been subject to the tithe directly, the Church would have received 1,000 gold pieces. Thus, the economic interests of the Church were in direct opposition to the maintenance of the *encomienda* system. The Church officials attempted to influence the Crown to abolish the *encomienda* by reporting the destructive consequences of the institution as well as any behaviors by *encomenderos* that might be in opposition to the general interests of the Crown. These quite elaborate reports gave valuable information about the condition of the Indian populations, information which the Crown could use in timing the imposition of restrictions upon *encomenderos*.

In a somewhat more subtle way *encomenderos* could increase their wealth at the expense of the Church, because the imposition of the tithe on *encomenderos* took the form of a **specific** ad valorem tax (on specific goods) instead of a **uniform** ad valorem tax on all output.²² Since the tithe applied only to the tribute that was collected in the form of agricultural outputs, an *encomendero* could reduce his tithe obligations by demanding personal services from Indians rather than agricultural outputs in payment of the tribute. This would reduce the amount of the tithable tribute, reducing the income of the Church. For example, if an *encomendero* employed some of his subjects in the construction of buildings to discharge their tribute obligations, neither the services of the Indians nor the buildings were subject to the tithe, so the tithable portion of the tribute was reduced. The Church officials strongly opposed the *encomenderos*’ use of Indians in the production of non-agricultural outputs.

²¹Tithes are discussed in *passim* by every major work on the Spanish conquest, such as those of Haring (1952), Miranda (1952), Simpson (1966) and Gibson (1964). Of particular interest is the work of Borah (1941).

²²This argument was recognized in 1519 by several Church and Crown officials, and yet the argument has not been discussed seriously by modern historians. See, for example, Zavala (1973: 34–35, particularly item #5). The need to make the Church tax a more general tax was also explicitly recognized by the Crown in 1549. See Miranda (1952: 105–106).

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

The evidence can be extended by examining cases in which *encomenderos* employed their subjects in mining and the production of metals. Whereas the Crown received a share of the output of the mines (which share was termed the Royal Fifth), the Church would suffer a loss in terms of foregone agriculture output and tithable tribute. Hence, the opposition of Church officials to the use of Indians for non-agricultural purposes, or personal services, can in part be explained as an attempt to reduce tax-avoidance activities by the *encomenderos*.

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

Given the theory presented in the preceding section, the opposition of the Crown to the employment of Indians under *encomienda* for personal services is easy to understand. Personal services were generally permitted in the early stages of each colonial venture; with time, the Crown imposed regulations that required an *encomendero* to pay compensation for these services and finally, we are told, the use of Indians under *encomienda* for **unpaid** personal services was abolished altogether. At least one Crown ordinance states that the income received from these personal services should be taxed by the local authorities,²³ but it is not documented that any such ordinance became operative. In Chile, the evidence indicates that the payments to Indians in *encomienda* were substantial, but these payments accrued to whole villages of Indians and were administered by Crown officials (Jara 1969: 37).

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

6 Historical review

Traditionally, the history of the *encomienda* has been divided into two periods: the Caribbean and the Continental stages. That division is not analytically useful. While the conquest and

²³See *Historia documental de Mexico* (1964: 220–221).

colonization of Mexico gave new life to a dying institution, what needs emphasizing is that each **new** colonial venture created the circumstances for the rational introduction of the *encomienda*. The institution then followed a similar secular pattern of development in each episode.

For the Mexican case, Simpson has argued that the *encomienda* was “tamed” during the second half of the Sixteenth Century; at this time a paternalistic relationship developed between *encomenderos* and their charges; tribute was regulated by Crown officials; most importantly, personal services to *encomenderos* were restricted and finally eliminated. The same cannot be said for other colonies. Personal services to *encomenderos* ceased to be important in Mexico at a time when they were still important in Peru and Chile, and were becoming important in Venezuela, Paraguay and the Plate region.²⁴

“As late as 1600, Comayagua, Nicaragua and Costa Rica (all subject to the *Audiencia* of Guatemala), Venezuela (subject to that of Santo Domingo), Trujillo, La Grita, Pamplona, parts of Tunja and other districts of the *Audiencia* of Santa Fe de Bogota, Popayan and Salinas (subject to the *Audiencia* of Quito), and the governorships of Santa Cruz de la Sierra (Paraguay), Tucuman (subject to Charcas) and Chile (subject to Lima), all still maintained the system of the *encomienda* based on personal services, according to the report of Fray Miguel de Agia.” (Gongora 1975: 141–142).

The Venezuelan and Chilean cases are particularly telling. According to Arcila Farias (1957: 287), *encomiendas* were first established in Venezuela in 1545, and personal services continued to be required until 1687. As late as 1591, the King of Spain issued orders that personal services be tolerated in Venezuela (Arcila Farias 1957: 215–216). *Encomiendas* of personal services **exclusively** did exist in Venezuela in the Seventeenth Century and it should be clear that the Crown followed different policies for different regions. In Chile, the end of personal services occurs in 1789 (Feliu Cruz 1941: 240). There, the Crown had even reversed its position on the enslavement of warring Indians (which had been prohibited in the Sixteenth Century). As late as 1625 the Crown issued orders permitting the capture and enslavement of Indians (Feliu Cruz 1941: 176).

Historians seem fascinated by the recurrence of the restrictive regulations established by the New Laws of 1542. These regulations limited personal services to *encomenderos*, made Crown officials responsible for determining the amount and composition of the tribute from *encomiendas*, prohibited the creation of new *encomiendas* and the reassignment of old ones, and freed Indian slaves.²⁵ In terms of our analysis, the significance of these regulations is that they became effective in different regions at different times. The experience in the Antilles is subsequently repeated in Mexico, Peru, Venezuela, Chile and every other new colonial venture. The Crown made it clear that new conquerors would be assigned privileges, one of which was the right to obtain *encomiendas* with restricted use of the personal services of Indians at the beginning of each conquest.²⁶ This evidence is compatible with our interpretation that the Crown behaved as a wealth-maximizing imperialist, and it is not compatible with an interpretation that allows the Crown continually to make mistakes or fail to learn from them.

The importance of defense measures within each colony in the Americas gives additional support to our thesis. Throughout the Sixteenth Century the colonies experienced revolts by

²⁴A detailed study of the Venezuelan case is found in Arcila Farias (1957).

²⁵A summary review of the New Laws is found in Simpson (1966: Chap. 10) and Parry (1966: 182–186).

²⁶See, for example, Zavala (1973: 792–793).

native populations, which were put down forcefully by the authorities. We can cite the revolts by Higuey in the Caribbean, the Mixton War in Mexico, the wars against the Indians of Pachutla and Lacandon in Guatemala (Zavala 1967: 60), the various wars against Inca chiefs in Peru, and the long lasting campaigns against the Araucanians in Chile and the Caribs in Venezuela. Within a colony, the Indian masses were prohibited from bearing arms and riding horses; also, the forced relocation of Indians can be interpreted as defense (or social control) policies. African slaves also were prohibited from associating with the Indian populations for fear that they would lead the Indians to revolt. The fear of external interlopers was likewise well founded. After all, Havana was sacked in 1550 by the French corsair Jacques de Sores, and there were numerous attacks by French, Dutch and English pirates on colonial towns and fleets. The era of Sir Francis Drake and John Hawkins was not one of secure borders and peaceful coexistence.²⁷

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

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

7 Conclusion

Though this paper is unable to capture fully the spirit of two centuries of Spanish imperialism in the Americas, and the richness of historical detail conspires against a simple summary of its purpose and direction, throughout the period the Crown seemed to search for a coherent policy of conquest. Many times the Crown appeared to be acting against its own self-interest, but what seems crucial is that self-interest, and not much more, tended to prevail. A case in point, which illustrates the perspective advanced here, was the general order to dismantle the *encomienda* at the time of the Mexican conquest. Hernan Cortes not only disobeyed the Crown, he convinced the Crown that the new circumstances required the re-emergence of this institution (Zavala 1973: 40–47). That at different times the Crown questioned the efficacy of its institutions simply shows a government strong enough to accept experimentation and self-criticism.

In conclusion, we restate that the economic purpose of the institution of *encomienda* was not simply to reward conquistadors, but to insure that the human capital of the newly acquired colonies be transformed into other forms of capital which could be defended from foreign aggressors at a lower cost. Afterwards, once a substantial part of the capital had been transformed and transferred, leaving a greatly diminished population that could be

²⁷A work that captures the conflict of the era is that of Peterson (1975).

easier to control and defend (and no nearby territory required subjugation), the *encomienda* had achieved its purpose and it would be discarded within a colony.

If our thesis is accepted, a new look at the Black Legend²⁸ seems warranted: the atrocities of the conquest period cannot be placed squarely on the shoulders of inhumane conquistadors. The colonists were fully aware that the incentives under the *encomienda* encouraged brutalities²⁹ and, while their conduct cannot be condoned, the ultimate responsibility for this conduct must be placed on the policies imposed by the Crown.

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²⁸Modern discussions of the Black Legend are found in the following works: Keen (1969), Hanke (1971) and Gibson (1964: Chap. 14).

²⁹See, for example, Haring (1952: 43) and Zavala (1973: 28).

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