

Colonial Institutions and Cross-Cultural Trade: Repartimiento Credit and Indigenous Production of Cochineal in Eighteenth-Century Oaxaca, Mexico

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Colonial societies exhibit peculiar institutions frequently attributed to the unequal and exploitative nature of the relations between colonizer and colonized. *Repartimiento* has been depicted as a coercive system of production and consumption designed by Spaniards to draw reluctant Amerindians into the market. An examination of *repartimiento* through the lens of New Institutional Economics provides an alternative understanding of this credit system. Characteristics of the *repartimiento* most often identified as exploitative are better explained as institutional adaptations designed to facilitate contract enforcement and economize on transaction costs in this cross-cultural trade. Consequently, this peculiar colonial institution served to expand trade.

Colonial historians are confronted with peculiar institutions and practices that emerge to articulate and negotiate the complex relations between colonizer and colonized. Many such practices are imposed by the colonial power, and whereas they might be manipulated and reformed by the colonial subjects, they nonetheless reflect the inequality of power and exchange upon which the system of colonialism is predicated. But institutions serve much more complex purposes than merely reinforcing colonial domination and assisting the exploitation of the colonized. Institutions also seek to erode barriers and to facilitate the transference of ideas, laws, culture and goods.

Historians of Spanish America have traditionally emphasized the exploitative nature of the economic institutions of the Spanish colonial world, presenting them foremost as devices designed to extract the wealth of the colony's indigenous subjects. One of the practices that historians most condemn in the late colonial era is the *repartimiento de bienes*,¹ often held up as the prime example of a highly exploitative and

The Journal of Economic History, Vol. 65, No. 1 (March 2005). © The Economic History Association. All rights reserved. ISSN 0022-0507.

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While I am indebted to many scholars who over the years have read and commented on versions of this article, I wish to identify and thank the three historians who have made the deepest impact on my work: Kenneth Andrien, John Coatsworth, and Richard Salvucci. I have also benefited from the helpful comments of *JEH* editor Knick Harley and two anonymous referees.

¹ The term *repartimiento* means distribution or allotment and was used in many contexts in colonial Spanish America. The *repartimiento de bienes*, the focus of this article, refers to the purchase and sale of goods by Spanish district magistrates to their Indian charges in colonial

extractive institution. Despite the attempts of revisionist historians to provide more nuanced explanations of the *repartimiento*, the conventional wisdom holds that the *repartimiento* was a forced system of production and consumption driven by the coercive authority of Crown officials that was designed to draw reluctant Indians into the market at unfavorable terms.²

This article proposes a new approach to understanding the colonial system of *repartimiento*, examining especially *repartimiento* production of red cochineal dye in eighteenth-century Oaxaca. The *repartimiento*, it is argued, was an institution that served to facilitate Spanish-Indian trade by lowering transaction costs, facilitating the enforcement of contracts, and reducing the levels of risk in the cross-cultural environment of the southern colonial Mexican province of Oaxaca in the late eighteenth century. The need for an innovative institutional arrangement that led to the evolution of the *repartimiento* was especially acute in Oaxaca because the most important sector of trade involved the provision of production credit by Spaniards to Indian producers. The supply of credit is always sensitive to levels of risk. Providing credit under the particular colonial, cross-cultural conditions of eighteenth-century Spanish America was perceived as especially risky due to the poverty of the borrowers, the limited development of legal means to collect debts, as well as the inherent uncertainty that characterized all relations between colonizing Spaniards and colonized Indians. The *repartimiento* helped overcome these and other obstacles and made possible the provision of credit to Indians. This unusual institution served to lessen obstacles to trade that were peculiarly colonial and cross-cultural.

HISTORIOGRAPHY

The *repartimiento* has a special place in the historiography on Spanish-America as it is traditionally identified as one of the most notorious institutions of the late colonial era devised to extract wealth from native communities. According to this traditional depiction, officials of the Spanish Crown used the political power of their offices to force Indians

Spanish America. This institution is unrelated to the important early colonial labor draft in Mexico referred to as the *repartimiento de indios*.

² For traditional treatments of the *repartimiento* in Mexico see, for examples, Hamnett, *Politics*; Brading, *Miners*; Stein, "Bureaucracy"; Pastor, "El repartimiento"; Patch, *Maya*, pp. 81–93 and *passim*; Chance, *Conquest*, pp. 103–11; Farriss, *Maya Society Under Colonial Rule*, pp. 43–47; Carmagnani, *El Regreso*, pp. 163–74; and Menegus Bornemann, *El Repartimiento Forzoso*; Several revisionist works, discussed at length in what follows, depict the *repartimiento* as less coercive. See Ouweneel, *Shadows*, pp. 172–209; Pietschmann, "Agricultura"; Baskes, "Indians"; and, to a lesser extent, Dehouve, "El Pueblo de Indios."

to buy European items that they neither needed nor wanted and to produce marketable commodities with which to pay for these “forced purchases.” Prices in this exchange were always exceedingly unfavorable to the Indians, leading one historian to conclude that “the great discrepancy in prices, always in the Spaniard’s favor, was of course one reason that the latter had to rely on force . . . in the first place.”³ Another prominent scholar describes the Oaxacan *repartimiento* as follows: “A common practice was to sell on credit at excessive prices to unsuspecting Indians. When payment became due, the merchant would enter his clients’ homes and take whatever of their personal property that struck his fancy. The items carried off in this fashion were frequently worth much more than what the Indians owed.” Given this description, it is no surprise that the same author concludes that the system “more nearly resembled robbery than commerce.”⁴ The *repartimiento* is thus identified as a primary means to force reluctant Indians into the market as producers and consumers at discriminatory terms, a highly exploitative colonial institution.

Few historians who have addressed the *repartimiento* have focused much attention on the inner-workings of the system, however. In fact, as two leading historians argued some time ago, “the topic has generated an entrenched mythology, but what is known about the actual operation of *repartos* is actually very little.”⁵ This oversight is partially explained by the different interests of historians who have engaged the subject. Several important studies have examined the *repartimiento* because of its centrality in the late colonial Bourbon attempts to project more fully its authority in colonial Spanish America, a political project that culminated in the introduction of the 1786 System of Intendancies and the abolition of the *repartimiento*. As such, these works focused on the political debates surrounding these reforms, examining the response of Mexico’s entrenched interests to the Crown’s efforts to usurp their power.⁶ Other scholars have focused on the internal social, political, and economic structures of indigenous communities and encountered the *repartimiento* primarily when some related conflict led Indians to challenge the Spanish officials who operated the *repartimientos*. The na-

³ Farriss, *Maya Society*, p. 44.

⁴ Chance, *Conquest*, p. 97.

⁵ Lockhart and Schwartz, *Early Latin America*, p. 356.

⁶ Hamnett, *Politics*; and Brading, *Miners*, are two books that pioneered historians’ understanding of the Bourbon reforms and that discussed *repartimiento* extensively without delving too deeply into its microeconomic logic. Article 12 of the 1786 Royal Ordinance of Intendancies abolished the *repartimiento* in part because the practice served to corrupt the crown officials who engaged in this trade often to the dereliction of their responsibilities to the King. Abolition was consistent with the modernizing Crown’s attempts to, in the words of Brading, “reconquer” America. On the abolition, see especially Hamnett, *Politics*.

tives' discontent only reinforced these historians' predisposition to understand the *repartimiento* as forced trade.⁷ Because they asked different questions, in none of these works did the historians attempt to reconstruct the microeconomic details of the system.

Only a few scholars have questioned the role of coercion in driving the system of *repartimiento*; these perspectives came after closer exploration of the economic characteristics of the system. Horst Pietschmann, examining the operation of *repartimientos* in the Mexican province of Puebla, was the first to challenge the conventional interpretation. Pietschmann sought to better understand the nature of indigenous integration into the economy, noting that in most histories "the Indian only appears as an object of exploitation."⁸ Struck, in part, by the prominence of the sale of expensive draught animals in the Pueblan *repartimiento*, Pietschmann concluded that, far from onerous, the system was critical in enabling the indigenous population to "secure the provision of totally necessary goods as well as a guaranteed outlet for their production."⁹ Arij Ouweneel, focusing on the same region and enjoying access to considerably better source material than had Pietschmann, developed similar conclusions. According to Ouweneel, the *repartimiento* was seen by native Pueblans as a form of "private tribute" that was earned by the Spanish officials for their "buen gobierno," their just rule.¹⁰ As such, it was shaped by expectations of reciprocity. More importantly, Ouweneel's work built on Pietschmann's in showing that the *repartimiento* followed a structure of customary rules and that items traded in the system reflected both the needs and resources of local native economies.¹¹ Both Pietschmann's and Ouweneel's conclusions were in stark contrast to the traditional portrayal that at its most extreme suggested that the Spanish officials used the *repartimiento* to dispose of "velvets . . . linens, baizes of Castile, fine beaver hats, mirrors, playing cards, [and] gilded paper."¹² Furthermore, Ouweneel established the existence of customary prices within the *repartimiento* dashing the con-

⁷ See, for example, the important works by Chance, *Conquest*; Farriss, *Maya Society*; Patch, *Maya*; and Pastor, *Campesinos*.

⁸ Pietschmann, "Agricultura," p. 72.

⁹ *Ibid.*, p. 79.

¹⁰ Ouweneel, *Shadows*, p. 169.

¹¹ *Ibid.*, chapter 4. Patch ("Imperial Politics," p. 105) portrays the *repartimiento* as a coerced system and yet concludes that it "took advantage of existing structures of production. Spinning, weaving and cultivation of cotton and cacao were traditional branches of the Indian economy."

¹² Stein, "Bureaucracy," p. 6. Here Stein was referring specifically to the Andes but with implication to Mexico as well. Danièle Dehouve is another historian who has recognized the value of the livestock sold to the Indians through the *repartimiento*. For her, however, the *repartimiento* remains an essentially coercive system. See Dehouve, "El pueblo de indios."

ventional view that prices were determined arbitrarily by the Spanish officials at some excessively unfair level.¹³

According to these revisionist historians, then, the *repartimiento* operated as a valuable system of trade integrating rural Mexicans into the market economy.¹⁴ The Spanish district magistrate sold goods on credit or made advanced purchases in coin from the indigenous peoples of rural Mexico. These loans were freely received and made useful contributions to the rural economy. Ostensibly unfair prices in reality included implicit interest charges that were built into the *repartimiento* price, in part, to deflect church officials' charges of usury.¹⁵

NEW INSTITUTIONAL ECONOMIC THEORY

This article builds on the works of previous historians and attempts to provide a rationale for the existence of the *repartimiento* based on New Institutional Theory which in recent years has had a revolutionary impact on the social sciences, including economic history. New Institutional Economics suggests that one of the primary purposes of institutions is to facilitate economic activity by lowering the costs of engaging in economic pursuits, in the language of economists to reduce transaction costs. Institutions serve to overcome obstacles or barriers to trade, whether legal, political, economic, informational, or cultural, by providing an alternative institutional environment or set of rules to govern transactions.¹⁶ Employing the ideas of New Institutional Theory, this article argues that the *repartimiento* was an institution designed to overcome the inherent riskiness of providing credit to poor, widely dispersed Indians under the peculiar cross-cultural conditions of colonial Mexico. As such, the *repartimiento* made possible certain transactions

¹³ For instance, Ouweneel, *Shadows*, p. 176 found that the *alcalde mayor* of the Pueblan district of Zacatlán bought eggs from the Indians through the *repartimiento* at the price of 12 pesos per half-“carga,” which had been the price “since time immemorial.” For traditional portrayals, see for examples, Larson and Wasserstrom, “Consumo forzoso,” p. 365; Pastor, “*El repartimiento*,” pp. 201, 206; and Farriss, p. 44.

¹⁴ In addition to the revisionist works mentioned previously, see Baskes, *Indians*.

¹⁵ Both the mark-up of goods sold and the discounted price paid in advance to producers could be substantial. Such price disparities reflected, in part, the great risk of extending credit to poor rural folks who rarely offered collateral security. In the *repartimiento*, the financial risk was borne almost exclusively by the lender because borrowers who failed to pay on time were not saddled with additional finance charges. Furthermore, if they defaulted, creditors most often lost their funds altogether. See Baskes, *Indians*, ch. 6.

¹⁶ The field of institutional economics was really born with Ronald Coase's theory of the firm, but it was the pioneering work of others, especially Nobel Laureate Douglass C. North, who applied it to the field of economic history. See Coase, “Nature”; and North, *Institutions*. For a good introduction to the applications of this theory in the social sciences cases see Greif, “Microtheory.” Also see Williamson, “Institutions” and *Economic Institutions*.

that would not have taken place in its absence; it facilitated commerce by lowering the associated costs.

There were three primary obstacles to trade that the institution of *repartimiento* helped to overcome. First, enforcing contracts and collecting debts from rural Indians was exceedingly difficult, so difficult that most merchants refused to extend them credit. The greatest impediment to debt collection was the excessive cost of legal proceedings, necessary when, as frequently occurred, debtors failed to pay promptly. The *repartimiento* reduced the costs associated with enforcing contracts because the system was operated by the district magistrate who was personally vested with judicial Crown authority, which he used for his own business dealings. A second obstacle to trade that the *repartimiento* partially solved was the prohibitive cost of extending large numbers of very small loans. Each transaction had associated costs to the merchant and only by keeping these costs down could he ensure the profitability of his dealings. The *repartimiento* reduced costs by standardizing mutually understood and accepted terms. Rather than require the magistrate to haggle over thousands of individual loans, the *repartimiento* established fixed and stable terms, at least in the case of low-priced items that were largely undifferentiated, as were many of the commodities produced in rural Spanish America.¹⁷ Last, the very standardization of *repartimiento* terms helped reduce the inevitable uncertainties and mistrust that characterized commerce in the cross-cultural, translingual context of colonial Mexico. This institutionalized form served to reduce ambiguities between Spanish creditor and Indian borrower.

A DEMOGRAPHIC AND ECONOMIC OVERVIEW OF COLONIAL OAXACA

Oaxaca's colonial population was overwhelmingly indigenous. High transportation costs to Mexico City and the wealthy mines of northern Mexico discouraged the extensive production of staple crops on Spanish haciendas in this province 300 miles southeast of the Viceregal capital. As a result, indigenous communities maintained control over most of the province's landed resources. Only in the valley surrounding the pro-

¹⁷ Price standardization did not exist in the Oaxacan *repartimiento* of draught animals. The prices for such items fluctuated, reflecting, undoubtedly, the size, age, and health of the beasts. Negotiating the sale price of a mule, however, was far less problematic because the transaction cost was small relative to the value of the transaction and the total number of Indians buying animals was far lower than the number contracting to produce cochineal. For an example of Indian *repartimiento* recipients haggling over the prices of draught animals, see Archivo General del Estado de Oaxaca (hereinafter AGEO), Real Intendencia de Oaxaca II, Leg. 4, Exp 13, 1795.

vincial capital of Antequera de Oaxaca did Spanish haciendas come to control any significant portion of the territory.¹⁸ In fact, the Spanish population in the province was minimal. A census conducted in 1790 revealed a total provincial population of 410,618; 88 percent of this population was identified as Indian, and only 6 percent was Spanish.¹⁹

The small Spanish population and its limited possession of land, however, did not mean that the province was isolated from the Spanish-European market. Although the most important economic activity of the local indigenous population was the production of subsistence crops for immediate consumption, native Oaxacans also engaged extensively in the production of cochineal dye for export. In the mid-1790s the Viceroy of New Spain (Mexico) estimated that 25,000 to 30,000 Oaxacans were employed in one fashion or another in the cochineal industry.²⁰ Cochineal production was by far the most important export commodity produced entirely by Amerindians in all of colonial Spanish America. From 1758 to 1786 the value in Oaxaca of cochineal produced exceeded one million pesos in every year except 1781. In 1771 alone, the value of Oaxaca's cochineal production eclipsed four million pesos.²¹ As Figure 1 illustrates, between 1796 and 1828, years that followed the peak years of production, cochineal exports by value were still very significant, ranging from 4 to 38 percent of Mexico's exports in any given year.²² In short, indigenous Oaxacans were deeply integrated into the international market as commodity producers.

Cochineal dye comes from the body of the cochineal insect, which, when dried and crushed, produces a crimson color so brilliant that it became the preferred source of red dye in Europe shortly after it was first imported from America in the sixteenth century. The insect is indigenous to southern Mexico but only cochineal that was painstakingly cultivated earned the classification of *grana fina*, the dye highly valued in European markets. The cochineal insect is a parasite which lives off the juices of the *nopal* cactus of southern Mexico. Birds and other insects feed on cochineal and so producers had to be vigilant in protecting the bugs from their predators.²³ Although not arduous, the production of

¹⁸ See Taylor, *Landlord*, chap. 4.

¹⁹ *Primer censo de población de la Nueva España, 1790: Censo de Revillagigedo*, "un censo condenando." Mexico City: Dirección General de Estadística, 1977, pp. 141–47.

²⁰ Archivo General de Indias (hereinafter AGI), México, 1238, Instrucciones de gobierno que dejaron a su sucesor el virrey Conde de Revillagigedo, 1794.

²¹ For the quantity and value of cochineal produced in Oaxaca, see Hamnett, *Politics*, Appendix 1, pp. 169–70. In the late colonial period, the Spanish peso was valued at roughly 0.20 pounds sterling.

²² Data are from Lerdo de Tejada, *Comercio Exterior*. No comparable export data for the earlier period exist.

²³ On the process of cultivation, see Dahlgren de Jordán, *El Nocheztli*. Also see Donkin, *Spanish Red*, pp. 14–17.

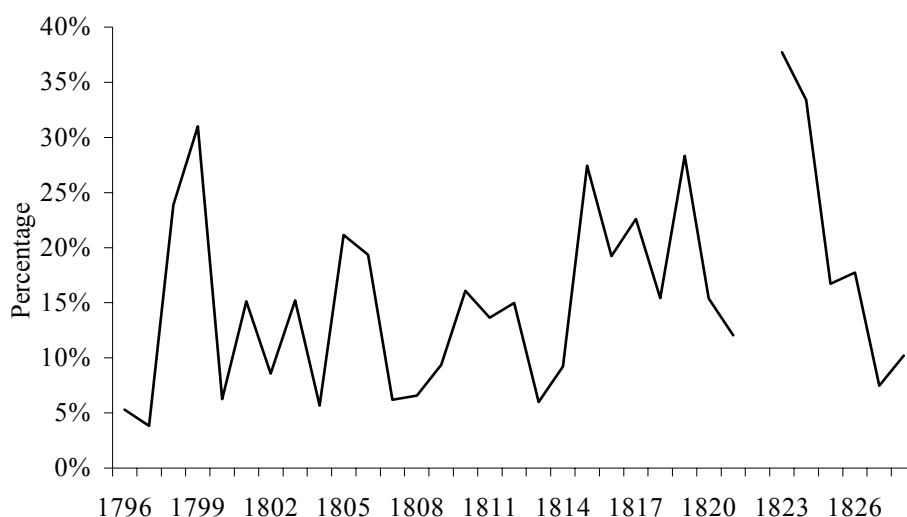


FIGURE 1
COCHINEAL EXPORTS AS PERCENTAGE OF TOTAL MEXICAN EXPORTS: 1786–1828

Source: Lerdo de Tejada, *Comercio Exterior de México*.

cochineal was very labor intensive. This latter characteristic served as a barrier to entry for larger scale producers; Spanish haciendas largely failed in their attempts to enter the production end of this industry.²⁴ Instead, cochineal production was monopolized by indigenous Oaxacans who produced the dyestuff in backyard cactus groves employing family labor.

Whereas Indians dominated the production of cochineal, Spaniards played critical roles as financiers and exporters of the dyestuff. In fact, if it were not for the availability of financing, cochineal could not have been produced in bulk. Spaniards provided indigenous producers with cash advances against harvests with which to purchase inputs as well as smooth out consumption during the agricultural cycle.²⁵ The overwhelming majority of this financing was extended through the *repartimiento*. In the cochineal *repartimiento*, Spanish district magistrates, the *alcaldes mayores*, almost invariably advanced cochineal producers

²⁴ Donkin, *Spanish Red*, p. 13; and Hamnett, *Politics*, 57–61. The paltry amount collected in tithes from the Spanish producers of cochineal reveals how marginalized they were in the production end of the trade. AGEO, Real Intendencia I, Leg. 4, Exp. 43, Real provisión para que los cosecheros de grana paguen el diezmo a la santa iglesia, 1784.

²⁵ Wright (*Old South*, p. 97) emphasizes the dependence that Southern sharecroppers had on credit “if he wanted even minimal security for his family’s needs for the coming year”

12 *reales* (1.5 pesos) against the future delivery of each pound of cochineal.²⁶ Such advances were referred to as *repartimientos*.²⁷

The dependence of cochineal production on credit would have been an obstacle to cochineal production had not institutional adaptations overcome market imperfections and lowered transaction costs, exactly as the New Institutional Economics predicts. Cochineal production in colonial Oaxaca was characterized by several factors that made the provision of credit especially risky and costly. First, native Oaxacans exhibited very high rates of delay and default in the repayment of their debts. Second, the organization of production necessitated large numbers of very small loans. Last, the cross-cultural nature of Spanish-Indian trade introduced a great degree of uncertainty into the *repartimiento* transaction. Characteristics of the *repartimiento* helped to overcome these and other market imperfections, lowering perceived risk and reducing transaction costs. In short, these institutional adaptations made possible the provision of credit under highly risky colonial conditions.

OBSTACLES TO CREDIT AND INSTITUTIONAL ADAPTATIONS

Debtor Default, Political Power, and Contract Enforcement

The greatest obstacle to financing cochineal production in colonial Oaxaca stemmed from the difficulty of enforcing contracts, ensuring timely repayment of loans. That the *repartimiento* was operated by colonial officials possessing judicial power to help in the collection of debts served to reduce, but not eradicate, this risk. Indigenous borrowers were often delinquent in closing their debts. In part, default was the inevitable result of the high level of crop failure owing to the extreme vulnerability of cochineal to inclement weather. An unexpected frost, not uncommon in the Oaxacan highlands where much of the dyestuff was produced, or even excessive wind and rain might be sufficient to destroy the entire harvest of cochineal insects fattening in the cactus grove.²⁸ Much more problematic, however, was the propensity of debtors to evade their creditors. When the Spanish officials or their assistants ventured to the indigenous villages at harvest time, they often faced great difficulties collecting the dyestuff owed to them. Sources

²⁶ See Chance, *Conquest*, pp. 103–11; Hamnett, *Politics*; and Baskes, *Indians*, pp. 98–109. The credit price of 12 *reales* per pound was nearly universal throughout the eighteenth century, a factor explained in what follows as a way for the officials to keep transaction costs low and to reduce the levels of uncertainty inherent in cross-cultural trade.

²⁷ *Repartimientos* alternatively consisted of goods (especially large work animals) advanced on credit and repayable in either coin or kind.

²⁸ See Donkin, *Spanish Red*, p. 13.

rarely reveal why producers reneged on their debts. But that this was common is indisputable, if for no other reason than because of the multitude of surviving archival cases regarding such debts.²⁹ Certainly default reflected producer poverty, but simple foot dragging, trying to escape payment of debts, was undoubtedly common. The *alcaldes mayores* typically served five-year terms, at the end of which any debtors who had succeeded in not paying were likely to escape their obligations altogether.³⁰

Regardless of the reason, the difficulty of enforcing contracts in rural colonial Mexico was the primary reason that the *repartimiento* came into existence. The *repartimiento* was operated by magistrates vested with judicial power, which they could use to facilitate the enforcement of contracts. These powers enabled officials to collect their own debts at reasonable cost. Had it not been for this ability, the officials would not have made many of these loans and the quantities of cochineal produced would have been much lower.

In 1752, in response to a questionnaire circulated by the Viceroy, the *alcaldes mayores* of Oaxaca's districts provided detailed reports on the operation of the *repartimiento*. Virtually all of the respondents commented on the extraordinary difficulty faced in the collection of debts. For instance, Don Nicolas de Mimiaga, the magistrate of the district encompassing Chichicapa y Zimatlán, noted the frequent need to refinance cochineal producers who could not pay on time, providing them additional *repartimiento* funds in the hope that they would cancel their entire debts in the following harvest. Despite all his efforts, he noted, inevitably some debtors fled, others died, and still others were simply insolvent. In summary, he exclaimed that "one gives thanks to God when the money is collected in two years."³¹

Refinancing was rational when officials believed that default was the result of crop failure. The *alcalde mayor* could also arrest those who failed to pay their debts promptly, throwing them into the local jail in the hopes that incarceration would encourage them to fulfill contracted obligations.³² Obviously such an approach was counter-productive

²⁹ The frequency of default is discussed in Hamnett, *Politics*, passim; Ouweneel, *Shadows*, pp. 172–86; and especially Baskes, *Indians*, chaps. 4, 6, and passim.

³⁰ The priest of Ayoquesco noted that one way the Indians could escape their debts was to hope that they avoided the debt collectors until the termination of the official's term in office. AGI, Audiencia de Mexico, Legajo 2588, 1784, Cordillera cuarta providencias de visita del obisbado de Oaxaca - Informes de dos curas sobre repartimientos de Alcaldes Mayores.

³¹ Archivo General de la Nación (hereinafter AGN), Subdelegados, Tomo 34, 1752, Informes de curas y alcaldes mayores sobre el repartimiento: Chichicapa y Zimatlán, ff. 135.

³² See, for example, AGN, Indios, Tomo 64, exp. 175, 1754, Que el alcalde mayor de la jurisdiccion del pueblo de Teozaqualco informe sobre la causa contra el indio Bernardo Martin que se encuentra en el carcel.

unless the official truly believed the debtor to be deceitfully evading payment. In other cases the magistrates might embargo the belongings of the debtor in hopes of recovering his due. For example, when *repartimiento* debts were not cancelled promptly the *alcalde mayor* might seize draught animals, perhaps even beasts sold previously through the system. This occurred to Felipe Morales, an Indian widower from Santa Maria de la Asunción de Tlacolula, who issued a complaint that the district magistrate had arrested him and seized his property for nonpayment of a cochineal debt. The official, in turn, had sold some of Morales's cattle on credit to other villagers through the *repartimiento*, deducting the value of the cattle from Morales's debt.³³

Greater problems might arise when the Spanish official encountered large numbers of recalcitrant debtors. This occurred in the 1780s in the Oaxacan valley town of Ayoquesco when the producers tried to avoid paying their cochineal debts altogether by escaping to the hills whenever the magistrate's debt collectors arrived in town. For obvious reasons of efficiency, the collectors had customarily come to the village at certain religious holidays when most of the indigenous villagers were present. Some debtors, however, began avoiding the village at these times, so that they could evade fulfilling their obligations. This evasion grew more complicated, however, when the collectors began making surprise, unannounced trips to the village. The local priests, the source in this case, complained to the Crown that the debtors had responded by avoiding the village altogether, causing them to miss repeatedly their religious duties.³⁴

Although we do not know to what degree the official succeeded in collecting his debts from the villagers of Ayoquesco, the importance of judicial power in facilitating the enforcement of debts becomes clear from a different case involving an outgoing *alcalde mayor* of the cochineal rich district of Nexapa. The official, Don Faustino Manero, reached an agreement in March, 1765 with the newly appointed official, Don Gabriel Gutierrez de Ruvalcava, in which the latter agreed to postpone for several months his occupancy of the post so that the former could collect the many cochineal *repartimiento* debts that remained outstanding. Manero paid Gutierrez the very substantial sum of 10,000 pesos. It is clear that Manero believed that the office's judicial power would be instrumental in enabling his collection of debts.³⁵

³³ See AGEO, Real Intendencia de Oaxaca II, Leg. 2, Exp. 20, 1789, Un natural de Tlacolula contra el alcalde Mayor de Teotitlán del Valle.

³⁴ AGI, Audiencia de México, Legajo 2588, 1784, Cordillera cuarta providencias de visita del obispado de Oaxaca - Informes de dos curas sobre repartimientos de Alcaldes Mayores.

³⁵ Archivo de Notarias de Oaxaca, (hereinafter ANO) Escribano Manuel Franco de Lara, 1765, ff. 83-92, 27 March, 1765.

The effectiveness of incarceration is reflected in a case from the 1780s in which the *alcalde mayor* of the northern Oaxacan district of Teotitlán del Camino contracted for cochineal with indigenous producer Bernardo Antonio. The official, as was customary, advanced Antonio money to be repaid in cochineal at harvest time. Several seasons passed, however, and Antonio failed to meet his obligations. Finally, the district magistrate ordered Antonio's arrest for noncompliance and this order motivated Antonio to pay the official most, but not all, of the cochineal he owed to him. In the end, Antonio took six years to pay, rather than one season, and did so in 18 separate partial payments. Had the magistrate not attempted to take Antonio into custody, it is likely that he would not have collected his debt at all. The official's ability to employ judicial power for his own business dealings gave him a degree of security that a private merchant would have lacked. It certainly was no guarantee, however, that he would collect all of his debts.³⁶

When called to answer why they had failed to fulfill their obligations and deliver cochineal at harvest, producers rarely admitted more than that they had lost their harvests. This was certainly common, but also clear is that debtors sometimes found it beneficial to delay payment. Cochineal *repartimiento* loans never accrued interest; instead creditors built their interest charges into the advance price, loaning less than the market price for cochineal. One advantage to this for creditors was that it reduced the complexity (and the transaction costs) of maintaining their portfolios. In addition, as the implicit rate on these loans always exceeded the Church's legal rate of 5 percent, this practice insulated the officials from charges of usury.³⁷ The consequence, however, was that debtors paid no financial penalty for paying late, although creditors sometimes made additional credit contingent on the cancellation of earlier obligations, and thus the officials bore most of the financial risk.³⁸ The magistrates had a real incentive to monitor borrowers as best they could, especially because loans were almost always extended in coin and there was the very real risk that indigenous producers might spend their loans on immediate consumption rather than to finance production.

³⁶ AGEO, Real Intendencia de Oaxaca II, leg. 1, exp. 7, 1788, Natural de Teotitlán del Camino contra su alcalde mayor sobre cuentas del repartimiento.

³⁷ The charging of implicit interest to avoid accusations of usury was very common in Medieval Europe as well. See the discussion of usury and its "loopholes" in Kohn, "Finance," pp. 9–12. Even with these precautions, the *alcaldes mayores* were the frequently accused of usury by Church officials. See, for example, the report of the Bishop of Oaxaca dated 20 July 1778 in AGI, Audiencia de Mexico 1872.

³⁸ A good example is provided by the official of Teotitlán del Valle who in 1792 denied a peasant named Mateo Mendez another *repartimiento* until he first paid off an earlier debt in its entirety. AGEO, Real Intendencia de Oaxaca II, legajo 2, exp. 20, 1789, Un natural de Tlacolula contra el alcalde mayor de Teotitlán del Valle.

But the sheer number of small loans in the typical official's portfolio coupled with the relative isolation of many of the villages meant that creditors could rarely keep track of most of their borrowers' actions, nor was it economically feasible to even try in most cases.³⁹

As the foregoing cases illustrate, and these are but a small sampling of the rich archival evidence, enforcing contracts for even the judicially empowered Spanish officials was challenging. One might be inclined, however, to dismiss these cases as merely anecdotal, not necessarily reflecting the normal conditions under which these creditors operated. Although district magistrates regularly commented on the poor debt repayment of the Indians, complaints could reflect the exaggerated bias of creditors towards their clientele. That these cases are not extraordinary, however, is suggested more globally by the surviving account ledgers of Francisco Rojas y Rocha who served as magistrate of the district of Teposcolula in the 1780s. Analysis of his cochineal *repartimientos* reveal that in February 1784, 70 percent of his outstanding loans were overdue; they had not been repaid a full year after they were extended. Of his total portfolio, 44 percent of the *repartimientos* had been extended more than two years earlier.⁴⁰ Twenty percent of his outstanding debts were from advances made more than three years earlier.⁴¹ Perhaps this official's experiences were extreme, but the difficulty that he faced in collecting his debts was not unusual. One can only imagine how difficult a collection merchants without judicial power would have faced.

One of the primary reasons that the *repartimiento* is conventionally seen as a coercive system is because it was operated by officials of the Crown who sometimes employed violent means in the enforcement of contracts.⁴² As one author succinctly states: the Spanish officials "succeeded because their political power allowed them to use coercion, rather than market forces, to get the local population, especially the Indian peasantry, to comply with their demands. Colonialism was thus an essential feature of commercial exchange, for market forces alone would not have resulted in the transfer of profits away from the peasants on the scale desired by the merchant class."⁴³ Another scholar notes:

³⁹ On monitoring of borrowers, see Baskes, *Indians*, chap. 5.

⁴⁰ Some of the official's records were unusable for this exercise because he had not recorded the dates that the loans had been extended.

⁴¹ See AGN, Archivo Histórico de Hacienda, Real Administración de Alcabalas, cajita no. 43, 1784.

⁴² Violence figures largely in the archival sources on the *repartimiento* because very often cases that turned violent entered into the public sphere. If an indigenous debtor were thrown in jail, this would often lead to an investigation entailing the production of documentation. For each transaction that entered the public sphere, however, many hundreds were conducted without incident.

⁴³ Patch, "Imperial Politics," p. 78.

“What characterizes this system . . . is that it operates through a mechanism of political coercion. The *alcalde-merchant* has extra-economic authority: judicial and political. The producer is obliged to buy from him . . . and to sell to him . . . at the rates . . . that he dictates . . . because of the control that he exercises.”⁴⁴

These scholars are correct to identify the importance of the official’s judicial power. But, they overstate its significance. Although the magistrates were usually able to force debtors to repay their *repartimiento* obligations, their coercive capacity was not adequate to coerce whole populations to produce a major export product unwillingly. Historians have convincingly demonstrated that the late colonial Spanish state was weak (both absolutely and comparatively), especially outside of the colonies’ major cities, ports, and mines.⁴⁵ It seems likely that the officials would have enjoyed adequate power from their offices to collect most debts entered into willfully, although even this was not without significant effort; it seems unlikely that they could (with the help of several assistants) have forced thousands to produce and consume against their interests and desires. This latter point is magnified when one considers that during much of the eighteenth century, the Crown frowned upon and even attempted to abolish the *repartimiento*.⁴⁶ In short, a weak crown only sometimes willing to support the *repartimiento* at all would have been inadequate to back effectively a system as coercive as historians have painted the *repartimiento*.

But, again, the political power of the magistrates was critical, because it enabled them to collect difficult debts. To enforce contracts and collect *repartimiento* debts the district magistrates *did* use the power of their offices. The magistrates sometimes hauled recalcitrant debtors to jail, or seized their property in lieu of overdue cochineal debts. The officials’ legal muscle gave them a decisive edge over private merchants and enabled them to provide credit in this highly risky environment. As the evidence has shown, however, even their judicial power was no guarantee that they could easily collect all of the cochineal *repartimiento* debts owed to them.

⁴⁴ Pastor, “El Repartimiento,” p. 206.

⁴⁵ For a direct discussion of this question see Coatsworth, “Limits.” Coatsworth argues that the Spanish Crown was weak in comparison to other colonial powers of the era and was unable to project its power widely in rural Spanish America.

⁴⁶ The Crown correctly recognized that the practice of *repartimiento* entailed a corruption of Crown power. Essentially, the *alcaldes mayores* were using Crown power in alliance with private merchants to promote their mutual economic benefit. In its attempts to reassert its power and authority in the colonies, the Crown attempted to abolish the *repartimiento* in 1786. On the attempts in Mexico see Hamnett, *Politics*; Brading, *Miners*, pp. 42–50, 80–92; Baskes, *Indians*, chap. 3; and MacLachlan, *Spain’s Empire*, chap. 6.

Without the institution of *repartimiento*, Spanish-Indian trade would have been limited to commerce “*al contado*,” in cash. High levels of debtor delay and default made credit provision so risky that private merchants never posed serious competition to the officials, largely choosing to avoid the extension of funds to poor rural folks. As was frequently echoed in the colonial era, only the *alcaldes mayores* could safely extend credit widely to the indigenous population because only they had the judicial power to collect the debts. In fact, the 1751 legalization by Royal Cedula of the *repartimiento* was justified on the premise that without the officials’ administration of such loans, Indians would be deprived of financing altogether because “neither a merchant nor any other person can risk making such loans, nor wait such long terms with a collection so difficult and costly.”⁴⁷ Private merchants did sometimes loan funds to cochineal producers, but only to those with whom the merchants enjoyed some additional relationship, such as employer, which gave them both greater leverage to collect their debts and better information as to the producers’ creditworthiness.⁴⁸

The example discussed previously regarding the payment made by the magistrate of the district of Nexapa to delay the end of his tenure makes clear how critical the authority of the post was in enforcing contracts. The official, Don Faustino Manero, clearly believed that as a private merchant he would not be able to collect many of his debts, demonstrating how important the *repartimiento* was to this commerce.⁴⁹

Although they avoided loaning funds to the Indians directly, Mexico’s richest and most powerful merchants, the merchants of the Mexico City *Consulado* (merchant guild), found a way to overcome this obstacle by allying themselves with the Spanish magistrates, putting up tens of thousands of pesos per year to finance the magistrates’ *repartimiento* trade.⁵⁰ The Mexico City merchants became partners with the officials because the latter could utilize the power of their offices to enforce contracts, to ensure (to the best of their ability) that debtors repaid the loans in a timely fashion. Formal legal proceedings would have been too costly and time consuming for the collection of small debts, and so private merchants largely shied away from the provision of credit to the

⁴⁷ Several copies of this decree appear in AGN, Subdelegados, Vol. 34, 1752.

⁴⁸ See, for example, the cases of the several hacienda owners in Nexapa contained in AGEO, Real Int. I, Leg. 11, Exp. 24, 1799, Don Antonio de la Cantoella Santelizes, dueño de hacienda en Nexapa, se queja de los agravios cometidos por el subdelegado. Wright, *Old South*, pp. 97–98 stresses the importance of established relationships between poor farmers and creditors. Sharecroppers returned repeatedly to the same lenders working hard to “develop a track record of reliability.”

⁴⁹ ANO, Escribano Manuel Franco de Lara, 1765, ff. 83–92, 27 March, 1765.

⁵⁰ Hamnett, *Politics*.

poor. Because they lacked any mechanism to cheaply enforce contracts, merchants avoided the business of extending loans to poor rural Mexicans. These loans were perceived to be too risky. The *repartimiento*, however, was operated by officials who personally were vested with Crown authority to enforce contracts. The *repartimiento*, then, was an economic institution that served to make possible the extension of loans under otherwise excessively risky conditions. Even with judicial power, the loans were risky.

Because of their unique ability to enforce contracts, the *alcaldes mayores* enjoyed a virtual monopoly on the extension of credit to the cochineal producers, a factor that explains the magistrates' centrality in the cochineal trade. During the late colonial period, however, modernizing reformers increasingly painted the officials' *repartimientos* as monopolistic barriers to free commerce, a depiction that modern historians have largely embraced. The most prominent colonial critic of the *repartimiento* was José de Gálvez who in 1765 was sent by the Crown to Mexico with the task of modernizing the bureaucracy and liberating trade. For Gálvez, the magistrates were guilty of "excessively enrich[ing] themselves with their monopolies."⁵¹

In fact, the magistrates did, at times, attempt to exclude competition from the cochineal producing districts of Oaxaca, but such efforts were not likely designed to protect monopoly conditions.⁵² Prohibiting competition, probably unsuccessful in most cases, was instead part of the magistrates' efforts to guarantee compliance with contracts. The greatest risk posed by other merchants was not that the latter would undersell the *alcalde mayor*; few were even willing to extend credit to the indigenous producers. Instead, the competition, mainly peddlers, threatened to purchase freshly harvested cochineal from the Indians that the latter were required to deliver to the officials in cancellation of their *repartimiento* advances. Peddlers enticed Indian producers to sell them their finished dye and claim insolvency when the official came to collect.

Normally, producers were reluctant to cheat the *alcalde mayor* and divert their cochineal to the "open market." In some years, however, the market price of cochineal rose to such high levels that renegeing on their obligations grew especially tempting. In such years, some indigenous producers seemed willing to risk the wrath of the Spanish officials, selling their output to the traveling merchants and claiming later that they had lost their harvests. According to the 1769 report of the district mag-

⁵¹ AGI, Indiferente General 1713, Informe y plan de intendencias para el reino de Nueva España, 1768. Galvez's 1768 proposal was put largely into effect in 1786.

⁵² See, for example, the complaint of the peddler Juan Fernando Herrera in AGEO, Alcaldías Mayores, Legajo 34, expediente 14, 1774.

istrate of Villa Alta, Don José Molina y Sandoval, indigenous producers were much more likely to default when market prices rose substantially above the *repartimiento* price. In that very year, Molina had arrived at harvest time to collect the cochineal owed to him, but producers claimed that they had lost their cochineal and could not repay him until the following harvest. Whereas some probably had told the truth, others, according to Molina, had taken advantage of the currently elevated price of 24 *reales* (3 pesos) to sell their output at the regional markets, knowing that prices would probably be lower by the following harvest when they would repay the official.⁵³ By evading payment the indigenous producers were acting rationally, if not honestly, by choosing to sell their dyestuff in the “open market” at market prices, and to deliver cochineal to the magistrate only when the price had returned to more normal levels. The exclusionary tactics of the *alcaldes mayores* were designed to prevent such renegeing of debts. The large size of their districts, the shrewdness of the peddlers, and the complicity of the producers undoubtedly made exclusion an impossible task.

It is worth noting that the *alcaldes mayores* also purchased cochineal in the “open market,” paying market prices in coin for already harvested cochineal, prices that were sometimes greatly in excess of the fixed *repartimiento* credit price.⁵⁴ In the *repartimiento*, however, the officials endured considerable risk and so they naturally obtained the dyestuff at a discount.

Convinced that the magistrates impeded trade and that the abolition of the *repartimiento* would expand commerce accordingly, José Gálvez’s master plan of reform, the *Real Ordenanza de Intendentes*, was finally introduced in 1786. The most important, and controversial, piece of legislation was Article Twelve, which abolished the practice of *repartimientos*.⁵⁵

The authors of Article Twelve envisioned that with the end of *repartimientos* Indians would be “free to trade wherever and with whomever it suits them.”⁵⁶ And, according to Gálvez, “plentiful were the subjects dealing in the same goods and items as those that the *alcaldes mayores* provided.”⁵⁷ The reality, however, was different. Consistent with the ar-

⁵³ Archivo Judicial de Villa Alta (hereinafter AJVA), Civil, legajo 328, 1770. For similar complaints by district magistrates see AGN, Vol. 34. p. 119, 1752; AGI, Audiencia de México 1872, 1777.

⁵⁴ Several sources suggest that the officials obtained about a third of their cochineal through market purchases of finished cochineal. See Baskes, *Indians*, p. 129.

⁵⁵ An English language translation of Article Twelve is contained in Fisher, *Intendant System*, p. 108.

⁵⁶ *Ibid.*, p. 108.

⁵⁷ AGI, Indiferente General 1713, Informe y plan de intendencias para el reino de Nueva España, 1768.

gument put forth in this article, the end of the *repartimiento* spelled the virtual termination of credit in the countryside. Eight years after the implementation of Article Twelve, the frustrated Viceroy of New Spain affirmed that the “greatest blow that the internal commerce of this Kingdom has suffered in these times has been the lack of available financing which the Indians need.”⁵⁸ The Viceroy attributed the credit crunch to Article Twelve having “been interpreted in a most rigorous fashion, prohibiting all sales on credit,” when the King had intended that the prohibition only apply to the justices, not to other merchants.⁵⁹ Last, the Viceroy counseled, “this shackle removed, the Kingdom will be fomented in general and especially the hapless poor.”⁶⁰ The Viceroy saw the restoration of the *repartimientos* (ideally in the hands of private merchants) as the key to resurrecting Mexico’s depressed rural economy. In fact, as the Viceroy knew perfectly well, there had been some resurgence of the *repartimiento* owing to some Crown officials audaciously breaking the law and issuing loans to the Indians. Clearly sidestepping the question of their legality, the Viceroy optimistically noted that the Indians had “already started to breathe owing to some *repartimientos* that have been made in recent years.”⁶¹

The abolition of the *repartimiento*, among other factors, contributed to the decline of cochineal production after 1786. Reformers had expected private merchants to supply credit to the Indians in the absence of the *alcaldes mayores’ repartimientos*. Without the security to collect debts safely and cheaply, however, private capital refused to fill the void. With the abolition of this institutional arrangement, enforcement of contracts became too difficult and costly.

Loan Size and Cross-Cultural Trade

One of the central purposes of economic institutions, according to the New Institutional Economists, is to reduce the costs of doing business, as institutions “determine transaction and transformation costs and hence the profitability and feasibility of engaging in economic activity.”⁶² The ability of the *repartimiento* to minimize transaction costs was especially critical given the large number of small loans that were necessary to finance cochineal production. This potential obstacle was all the more profound owing to the linguistic and cultural divide that

⁵⁸ AGI México 1238 Instrucciones de gobierno que dejaron a su sucesor el virrey Conde de Revillagigedo, paragraph 456, 1794.

⁵⁹ *Ibid.*, paragraphs 458–59, 1794.

⁶⁰ *Ibid.*, paragraph 460, 1794.

⁶¹ *Ibid.*, paragraph 460, 1794.

⁶² North, *Institutions*, p. 118.

separated Spanish lender from indigenous borrower. Peculiar characteristics of the *repartimiento* served to reduce these impediments, lower transaction costs, and lessen perceived uncertainty and risk.

Throughout the province of Oaxaca, tens of thousands of indigenous producers cultivated cochineal in backyard cactus groves. Although total production was substantial, few produced more than a couple of pounds per year. This necessitated the annual extension of thousands of small loans, few of which amounted to much by themselves. The districts in which the Spanish officials operated ranged from several that had populations under 10,000 in 1790 to Villa Alta, the province's largest district, with a population of nearly 60,000 indigenous people spread over an enormous area.⁶³ The magistrates' assistants, known as *tenientes*, lieutenants, ventured out to the Indian villages of their districts and distributed money to the cochineal producers against cochineal to be delivered at harvest time. From the perspective of the creditors, typical loans were small; analysis of surviving ledgers shows an average loan to an individual producer was nine pesos for the future delivery of six pounds of cochineal.⁶⁴ From the perspective of the indigenous recipients, however, nine pesos was a substantial sum. It equaled the wages of roughly 36 to 48 days' labor in a Spanish enterprise, given the typical colonial wage rate of 1.5 to 2 *reales* per day (8 *reales* = 1 peso).

The small size of most loans required that the *alcaldes mayores* assemble a large number of clients, if the business were to be worth his while. But, the need to provide so many small loans also meant that the official faced the danger of seeing much of his potential gain erased by a multitude of transaction costs. One of the more unusual characteristics of the cochineal *repartimiento* addressed this problem and reduced transaction costs to a more tolerable level. With few exceptions, during the entire period 1750 to 1821, *repartimiento* loans were provided at the

⁶³ An argument could be made that the officials enjoyed, to some degree, a territorial monopoly similar to that described by Ransom and Sutch. Distant from colonial centers where most moneyed Spaniards resided, districts such as Villa Alta were simply beyond the reach of most potential creditors. The costs of doing business in such a distant and remote district would have been prohibitive, and this granted a monopoly to the district officials. Although there is some credibility to the application of this model here, I believe that the greatest barrier of entry was the obstacle to enforcing contracts faced by all but the magistrates. Distance would not have been a barrier to merchants willing to reside in the district or employ an agent to do so. And, the size of potential business was not so limited as to preclude attracting several merchants. On the model of territorial monopoly see Ransom and Sutch, *One Kind of Freedom*, pp. 132–37.

⁶⁴ See AGN Civil vol. 302, 1766, *primera parte*, *Cuaderno de las cuentas*, pp. 21–46; AGN Civil vol. 284, 1777–78, exp. 6. ff. 19v–24; AGN, Tierras, vol. 1037, 1777, exp. 1, ff. 212–13; AGN, Real Hacienda, Administración general de alcabalas, cajita 43, ff. 1–37, 1784; AGEO, Real Intendencia de Oaxaca II, leg. 40, exp. 24, 1811. For a lengthier analysis of these records, see Baskes, *Indians*, pp. 23–25.

stable rate of 12 *reales* (1.5 pesos) advanced for each pound of cochineal due at harvest time.⁶⁵ This rate remained stable despite a market price that fluctuated with changing market conditions. One consequence of this loan rate stability was that the implicit interest rate fluctuated with little relation to changing risk or availability of funds. Rather the return realized by creditors (discounting differences in ability to collect) depended on the difference between 1.5 pesos and the market price per pound. In some years the magistrates could sell the cochineal collected in the *repartimiento* for much more than in other years.

The stability of the cochineal *repartimiento* price seems odd at first glance. This apparent oddity, however, makes sense when one interprets the *repartimiento* as an institution adapted to the specific conditions of this colonial trade. First, the need to make thousands of small unsecured loans meant that the officials benefited by avoiding the need to negotiate each and every loan. In addition, “loan contracts” were verbal, not written, and so both parties benefited from the clarity provided by stable terms. In the cochineal *repartimiento* virtually every single loan had identical terms, terms universally recognized and accepted. Producers understood that they were required to deliver one pound of dyestuff for each 12 *reales* advanced to them. Had the Spanish district magistrates needed to haggle over the terms with each of his thousands of clients, the cost of transacting would have been prohibitive. The beauty of the *repartimiento* was that the parties only needed to establish a loan amount, not the terms of the loan. By keeping his transaction costs down, the *alcalde mayor* could operate his business more profitably. Although the fluctuating market price meant that some of the official’s loans were less profitable than others, keeping transaction costs low probably more than compensated him for charging lower implicit interest on some of the transactions.

But price stability in the *repartimiento* was even more critical in reducing the uncertainty inherent in cross-cultural trade. Trade between Spaniards and Indians involved exchange between people of two different cultures and languages, and this introduced uncertainties into what was already a very risky business. Spaniards and Indians in colonial Mexico were predisposed not to trust the “unpredictable” behavior of the “other.” This cross cultural uncertainty was magnified in the *repar-*

⁶⁵ Virtually every informed observer of the cochineal *repartimiento* commented on the nearly universal practice of loaning 12 *reales* per pound of cochineal. The surviving records all indicate that deviation from this rate was unusual. The only exception to this rule was the universal practice of extending ten *reales* per pound in the coastal province of Xicayan. This lower rate probably reflected the greater isolation of Xicayan, an inaccessibility that raised the costs of transportation to markets. So regularized was this rate that one historian referred to it as the “12-real standard.” See Chance, *Conquest*, p. 106.

timiento because this system entailed the provision of credit; the parties to the transaction needed to trust one another for the duration of the loan.⁶⁶

Writing about cross-cultural trade, Philip Curtin has suggested that “problems in cross-cultural understanding in general have meant that cross-trade has almost always been carried out through special institutional arrangements to help guarantee the mutual security of the two sides.”⁶⁷ The standardization of the *repartimiento* reduced both uncertainty and the potential for conflict. The terms of the *repartimiento* came to be universally recognized and viewed as legitimate, and this reduced the likelihood of the terms being disputed. The language employed by both sides of the contract is illustrative; in 1808, for example, Juan José Benítez, an indigenous cochineal producer from the town of San Mateo Sindihui in the Mixteca Alta, noted that the loan rate of 12 *reales* per pound of cochineal “has always been customary.”⁶⁸ In 1798 the magistrate of the district of Miahuatlán claimed that the standard rate of 12 *reales* per pound was “stipulated and agreed upon by immemorial custom.”⁶⁹ In eighteenth-century Oaxaca, these terms came to be seen as legitimate, even though they seem peculiar to the modern eye.

In several years the market price of cochineal dipped too low to allow the Spanish official to profitably advance 12 *reales* per pound. Several cases exist in which Indian producers accustomed to receiving 12 *reales* accepted (presumably out of need) a lower rate. The indigenous producers of Nexapa took cochineal *repartimientos* at ten *reales* per pound in 1798 because their district magistrate refused them the customary 12 insisting that the price of dye was too depressed. At harvest time, however, the producers demanded an additional two *reales* per pound because, as they argued, the market price had rebounded.⁷⁰ In still another case dating from 1779, the Indians of the district of Teotitlán del Camino reluctantly accepted advances of nine *reales* per pound because the district magistrate, Don Luis Frejomil, refused to give them more

⁶⁶ The word “credit” derives from the Latin *credere*, to believe, indicating the centrality of trust embedded in the transaction. See Wright, *Old South*, p. 97. Much of Wright’s discussion involves the extension of credit to poor black farmers and he notes “for blacks, it took an extra measure of proof even to gain the creditworthiness implicit in their accumulated wealth” (p. 100). White creditors of the postemancipation American south were predisposed to distrust black borrowers much as the Spanish *alcaldes mayores* distrusted the indigenous borrowers in colonial Mexico. Cultural or racial biases introduced obstacles to trade on credit.

⁶⁷ Curtin, *Cross Cultural Trade*, p. 1.

⁶⁸ AGEO, Real Intendencia de Oaxaca II, Leg. 13, exp. 2, 1810.

⁶⁹ Archivo Histórico del Municipio de Oaxaca (hereinafter AHMO) Criminal, sin número, Juicio criminal contra Don Fausto Corres, subdelegado de Miahuatlán, sobre injustos repartimientos y otros excesos, Oaxaca, 1798.

⁷⁰ AGEO, Real Intendencia de Oaxaca II, Leg. 6, exp. 17, 1801.

owing to the “guerilla,” the war.⁷¹ But when the harvest arrived, the producers balked, and refused to pay at any rate lower than 12 per pound. As the conflict escalated, the *Real Audiencia* (Mexico’s highest court) interceded and forced the Spanish official to accept the “customary” rate of 12 *reales* per pound.⁷² This standard rate, then, was not only viewed as legitimate by the Indians but even helped them to defend their interests. Everyone knew what the customary contract stipulated; it was simple and universally recognized.

Of course, these last two cases were extreme. It was actually unusual for the *repartimiento* terms to deviate from the standard rate. The stability of the *repartimiento* terms reduced the degree of uncertainty that was inherent in these cross-cultural transactions, and in doing so lowered the potential for conflict in most years. Standardization was further beneficial in that it reduced transaction costs incurred by the magistrate. The official made thousands of very small loans over the course of a typical season. Had he been forced to negotiate the terms of each and every verbal contract, his administrative costs would have grown prohibitive. The constant rate made such costly transacting unnecessary. The fact that the official earned more in some years and less in others was probably a small price to pay for the greater simplicity of the system.

CONCLUSIONS

New Institutional Economics has demonstrated the importance of analyzing institutions in terms of their effects on transaction costs. Historians have been too eager to explain “unfamiliar business practices” as the efforts of the economically powerful to pervert markets or monopolize trade.⁷³ In the colonial world one finds especially unusual institutions designed to regulate the relations between colonizers and colonized. Not without reason, historians often interpret such practices as a reflection of the imbalance that structures colonialism. Put to the analysis of institutional economics, however, such institutions will sometimes reveal very different logics.

The *repartimiento* is a case in point. With few exceptions, historians have portrayed the *repartimiento* as a coercive colonial institution designed to extract resources from Indian communities. When examined

⁷¹ In June, 1779, Spain joined France in the War of American Independence.

⁷² AGN, Civil, Tomos 302, 3 partes & 305, 1763–99, Autos seguidos por los herederos de Don Rodrigo de Neyra con los de Don Luis Frejomil alcalde mayor que fue de Teotitlán del Camino sobre pesos del avio.

⁷³ Williamson, *Economic Institutions*, p. 17.

closely and subjected to microeconomic, New Institutional Theory, however, a very different and plausible picture begins to emerge of the *repartimiento*. Many of the peculiar characteristics of the *repartimiento* that seem to historians as evidence of its coercive nature in fact served to reduce transaction costs and facilitate the enforcement of contracts. The *repartimiento* economized on transaction costs and permitted a branch of trade that would not have been as extensive in the absence of its institutional adaptations. The *repartimiento* facilitated the widespread extension of credit by Spaniards to Indians that enabled the latter to produce a major export product and become more fully integrated into the market and the world economy.

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