

# Exploitation versus Amerindian Rights in the Encomienda System



## 18 ▼ ENCOMIENDA REGULATIONS IN PARAGUAY, 1556

In 1503 the Spanish government sought to regulate and refine the utilization of Arawak labor on Hispaniola by giving the island's governor, Nicholas de Ovando, authority to gather the Arawaks into villages where they would be placed under the authority of a Spanish trustee, or *encomendero*. The *encomendero* received the right to extract tribute and labor from the Arawaks, but he also assumed responsibility for their material and spiritual welfare. This was the beginnings of the *encomienda* system, a method of forced Indian labor that soon spread to Mexico and South America, and still existed in parts of Spanish America at the close of the colonial era.

The subject of frequent royal legislation and countless court cases, the *encomienda* system varied from place to place and over time. Grants of Indians might be as small as one hundred, or, as was the case with the *encomienda* of Cortés in Mexico, as large as one hundred thousand. In the Caribbean islands Indians held by *encomenderos* were required to make tribute payments and provide labor in agriculture, gold mining, domestic service, and construction projects. In Mexico, however, demands were limited to tribute payments in agricultural products, textiles, or cash. In Venezuela and Paraguay, mainly labor was required.

In most of the Spanish Empire the *encomienda* system was short-lived. It disappeared in the 1540s in the Caribbean as a result of depopulation, and several decades later in Mexico and Peru as a result of unprofitability and royal legislation designed to suppress a labor system too easily abused by holders of *encomiendas*. The *encomienda* system lasted longest in peripheral regions of the empire such as Paraguay, Chile, and northern Argentina, where Spanish administrators often were negligent in enforcing laws and Spaniards would have been unwilling to settle without access to forced Indian labor.

From its beginnings the *encomienda* system represented an effort by Spanish officials to balance the need to utilize cheap Indian labor and their sense of obligation to Christianize the Indians and protect them from blatant exploitation and cruelty. Such concerns are revealed in the following set of rules concerning *encomiendas* in Paraguay issued by the territory's first governor, Domingo Martínez de Irala, in 1556. Note that the regulations deal largely with labor exactions. No tribute was demanded, because it was believed that the Guana and Guarani peoples who populated the region produced nothing of value to the Spaniards.

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### QUESTIONS FOR ANALYSIS

1. According to these regulations, what specific demands can the *encomenderos* make on the Indians allocated to them?
2. What specific provisions are made to protect the interests and well-being of the Indians held in *encomienda*?
3. What can you infer from these regulations about the motives of Spanish officials in their efforts to protect the Indians from abuses?
4. What provisions have been made to ensure the enforcement of these regulations? In your opinion, how adequate are these provisions in protecting the Indians from abuse?

First we order and command that all the Indians that have been allocated and commended . . . shall be obliged to obey the *principales*<sup>1</sup> and headmen that they may have or may be placed over them; and they shall not move, go, or absent themselves from their homes and *pueblos*<sup>2</sup> to other *pueblos* and houses or any other places, living and remaining there all the time that God leaves them life; and if their *principales* or headmen should move to another place or seat as an improvement, then all of them shall also move with him; and the persons to whom they are commended shall compel and force them to do this and carry it out under penalties established at the will of the judicial authorities; . . .

Also, we order and command that with regard to the persons to whom the said Indians belong or may be commended, it is prohibited for them to obtain, ask for, or procure through trade any Indian woman from the Indians . . . under pain

of the suspension of the service of the said Indians for the time of one year.

Also, we order and command that because the said Indians are so few, and because it would encourage the growth and settlement of the country not to give them excessive labor . . . the persons to whom they belong and may be granted in *encomienda* are prohibited, without the express consent of the said Indians, from giving or loaning them to other persons for any labor or service, or from receiving any payment for this; and when it might happen that such labor was agreed to both by the *encomendero* and the said Indians, it can be done when both parties thus agree to it and not in any other manner for a job in which the work is suitable and bearable, and the payment shall be received and enjoyed by the said Indians for themselves. . . .

Also, we order and command that the said Indians will be and are obligated to serve the

persons to whom they are commended in building and repairing their houses, in farming, stock raising, hunting, fishing, and other enterprises that may be carried on in the country, and they shall obey him and carry out his orders under the penalties that may be imposed at the will of the judge, and so that the work of building and cultivating may be moderated and assessed, we prohibit such persons from building houses or clearing fields to sell beyond those they need to live in and support themselves. . . .

Also, we order and command that the persons to whom the said Indians belong and are commended, as was said, shall be obliged to treat them very well and to favor and support them in everything possible, giving them moderate rather than excessive labor in accord with the intention of His Majesty . . . , treating them like relatives, instructing and indoctrinating them in the things of our Holy Catholic faith, as well as possible considering the land and the time, reprimanding them and weaning them from their vices and evil customs, so that their souls can be saved by means of divine grace and mercy; and the persons who take on this work shall be especially deserving with God, and we make this a charge on the conscience of these persons, and not on those of His Majesty or ours in his Royal name.

Also we order and command that no one be permitted to employ in his service more than the fourth part of the Indians granted to him in *encomienda* at the same time, so that they will not make them abandon their houses, and only in case of clear and recognized necessity can they order up to one half to serve as this may occur, but this will seldom be necessary; the penalty for violation shall be the said three thousand *maravedis*.<sup>3</sup> . . .

Also, we order and command that whenever these persons may go to visit the Indians that belong and are commended to them, when they go to their houses and villages, they shall not make bold to do them any injury or to allow the people of the land or the *criados*<sup>4</sup> they take with them to do them any; nor shall they beg, demand, take, or obtain in trade any of the things they may have inside or outside of their houses, since they are only allowed to ask for and the Indians are only obliged to give them three days' worth of their normal food supplies, without having to give them chickens or pigs they may have, unless they wish to do so of their own will in return for a moderate payment; and the chickens, livestock, and other things they may have there cannot be touched, taken, or consumed by the *encomenderos* without the permission of their owners; and if they should be consumed for some necessity, [the *encomenderos*] shall be obliged to pay for them. . . .

Also, we order and command that the said Indian *principales* be obliged, whenever a message is sent them with an Indian, to order Indians to go and do what they are commanded to, and also to send the Indians needed to live in the houses of their *encomenderos* during the times or months of the year they are required, serving and doing what they may be ordered, on condition that their *encomenderos* feed them and care for them when ill, indoctrinate them as stated, help them to die well, and teach them the best order and manner of living they can; . . .

Also, we order and command that these persons [the *encomenderos*] try to have two or three children of ten years or less from their *encomiendas* in their houses, so that they can learn to live as Christians and see and understand the things of God and His Holy Church and the proper manner of living, so that when they reach the age of twelve or thirteen years they can return to their homes and teach and instruct their parents, brothers, and other relatives; . . .

Also, we order and command that if the said Indians, either *principales* or ordinary Indians, should come to make just complaint over ill treatment, violence, injuries, or excessive labor, they should be heard by the judicial authorities and [their rights] maintained and protected, and if some person or persons should mistreat or punish them for this, they shall incur the penalties stated in the preceding ordinance;<sup>3</sup> and with regard to this and the violence, injury, and other crimes that may be committed, the testimony of the Indians shall be accepted, as long as it is supported and the Indians are not suborned or induced. . . .

Also, we order and command that every year after the said Indians are allocated to serve and pay tribute to their *encomenderos*, *visitadores* shall be sent out through all of the country and its districts with solemn judicial authority, a notary, and an interpreter, receiving authority and instructions from the person governing in addition to being obliged for the carrying out of these ordinances, in order that they may carry out a visitation of the country and the Indians and collect testimony concerning the acts of violence, injuries, and other crimes committed, and to arrest the Christians and Indians implicated and bring them as prisoners to this city, so that justice may be done in everything and the relief, welfare, benefit, conservation, and pacification

of the Indians may be obtained as His Majesty has ordered and charged. . . .

Also we order and command that . . . [if any Indians] should rebel and refuse to serve and pay tribute to their *encomenderos*, with the license and authority of the person governing, [men] can go to pacify, settle, and reduce these Indians to the service of His Majesty with the *caudillo*<sup>7</sup> or captain appointed for them and with the help of the obedient Indians, and the persons who hold *encomiendas* of Indians in these provinces, shall be obliged to go personally on foot or horseback with their arms at their own cost, or to send others in their place if there is some just impediment or illness that prevents them from going. . . .

And we command that these ordinances and each and every one of them be communicated and explained to all the Indians, when . . . there may be sufficient interpreters, so that it may come to the attention of all of them, and of [Indians in] other, separate villages that have not been granted in *encomienda*, so that they may understand, see, and recognize their condition and advantage and the manner in which they should live in order to be saved. Also, we command that these ordinances be read, affixed, and made public in this city so that they may come to the attention of all and no one can pretend ignorance of any part of them. . . .