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PENAL SERVITUDE IN NEW SPAIN:
THE COLONIAL TEXTILE INDUSTRY

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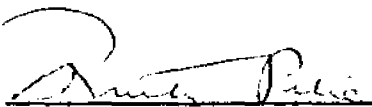
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A dissertation submitted to the Graduate
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of the requirements for the degree of Doctor
of Philosophy. The City University of New York.

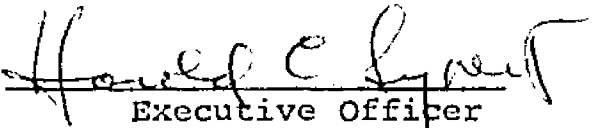
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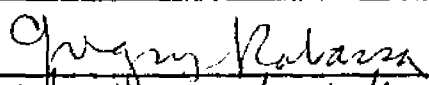
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PREFACE

The exploitation of penal workers in the textile workshops of New Spain forms the central theme of this dissertation. The textile mill was a privately owned and operated workshop that depended on a diverse labor force. The acquisition of prisoners by the textile mills supplemented an insufficient workforce and established a penal atmosphere that was imposed on other free workers. Prisoners were indebted workers; they were unable to pay the fines, damages, and other related expenses that resulted from their convictions. The judicial debt was paid by a private employer who obtained the prisoner's labor until the debt was repaid. Similar to other free workers, the prisoners were paid a wage, but as debtors their wages were held by the owners and deducted from their total indebtedness. All labor contracts therefore included the prisoner's wages, because the prisoner was a free worker forced by a debt to work for a creditor until the debt was paid.

The payment of wages established the authenticity of a prisoner's status as a free man. Wages were a convenient tool to determine the duration of servitude required to pay back fines and damages. Since a prisoner theoretically received wages, the prisoner was able to borrow additional

amounts from the employer as an advance on future wages. The royal government prohibited the lending of additional money to prisoners, in order to prevent the prolongation of penal servitude, but prisoners throughout the colonial period were forced to borrow in order to supplement a meagre diet and aid their destitute families. Penal workers were indebted; they wore chains and were unable to leave the workshops until their debt was completely paid.

The colonial courts and the workshop owners conceived of penal labor in terms of current labor practices. The employers made use of debts to obtain and retain free workers. Often small debts that resulted from purchases from the company store and wage advances formed the basis of a long term debt. The existence of a debt was an obstacle to the free movement of workers. The judicial debts that resulted from a conviction were often large and required many years to repay. The conditions of employment imposed on prisoners was analogous to other forms of labor exploitation. The acquisition of prisoners by colonial employers was one of many devices that utilized debts to supply the workshops with employees.

The support and inspiration of many people have made the completion of this dissertation possible. The subject of penal servitude was originally developed in a seminar taught

by Professor Magnus Mörner on systems of forced labor in colonial Latin American history. A grant by the government of the Republic of Mexico in 1973, called the Lincoln-Juárez scholarship, enabled me to research the subject of this dissertation in the archives and libraries of Mexico. My introduction and initiation into the mysteries of the Archivo General de la Nación were guided by the interest and knowledge of Professor Richard E. Greenleaf, Professor William Taylor, and Professor Asunción Lavrin. Professor Ruth Pike has been a diligent, knowledgeable, and considerate mentor whose suggestions have helped to organize an inchoate mass of material that seemed to defy organization. My appreciation to Professor Kline, Professor Rabassa, and Professor Syrette who read and criticized the manuscript. My wife and my parents deserve before any institution or individual, my special thanks, because without their patience and support there would be no dissertation.

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MEASURES AND MONEY USED IN THE TEXT

An almud was a measure of grain equivalent to about $3/4$ of a bushel or $\frac{1}{2}$ a fanega.

A fanega was a measure of grain equivalent to about $1\frac{1}{2}$ bushels; the fanega was also used to measure surface area and was equivalent to 1.6 acres.

The real was the basic unit of colonial coinage. Eight reales equaled one peso.

ABBREVIATIONS

- AA = Archivo de Ex-Ayuntamiento de la Ciudad de México.
- AGN = Archivo General de la Nación, México.
- CFS = Colección de documentos para la historia de la formación social de Hispanoamérica, 1493-1810. ed. Richard Konetzke. 3 vols. Madrid, 1953-1962.
- DIA = Colección de documentos inéditos al descubrimiento, conquista y organización de las antiguas posesiones de América y Oceanía. 42 vols. Madrid, 1864-1884.
- DIU = Colección de documentos inéditos relativos al descubrimiento, conquista y organización de las antiguas posesiones españoles de Ultramar. 25 vols. Madrid, 1885-1932.
- FHT = Fuentes para la historia del trabajo en Nueva España. ed. Silvio Zavala y María Castelo. 8 vols. Mexico, 1939-1946.
- MNA = Instituto Nacional de Antropología e Historia, México
Centro de documentación. Colección de microfilm.

INTRODUCTION

THE EUROPEAN BACKGROUND

The coercion of labor is a dominant theme of colonial Latin American history. The organization of Indian and non-Indian labor into systems of work defined the historical perspective into a succession of great labor systems. In the shadows of the dominant labor systems less conspicuous systems existed and thrived in the colonial environment. The purpose of this dissertation is to examine an ancillary system of labor of European origin that furnished penal workers to urban and rural workshops, sugar mills, mines, and public works. The colonial penal system was an organized labor market, and it functioned as a conduit to supply needed workers to private industries and public enterprises.

The formation of debts, which resulted from criminal and civil proceedings, formed the basis of penal servitude in Mexico. The majority of prisoners were insolvent and were unable to pay the courts what they owed. To recover the fines, damages, and other judicial expenses, the colonial courts were converted

into labor bureaus and the magistrates into labor brokers. Private employers purchased the labor of insolvent prisoners and the judicial debt was therefore converted into a private debt. The colonial textile industry was an important employer of penal labor. The colonial judiciary recognized the fact and sentenced dangerous criminals to work in the textile mills. Mandatory sentences to work in private industry were essentially sentences of hard labor and were imposed in addition to the customary corporal punishment of whipping. All penal workers employed in private industry owed debts, and the mechanism of debts that held them in bondage to private employers resembled the system of debt peonage that dominated labor relations in the era after independence.

The origins of colonial penal labor were rooted in European history. The penalty of hard labor was an ancient punishment. Roman penal slaves were employed as oarsmen on galleys, as mine and quarry workers, as gladiators, and in the less severe public works of "cleaning public baths and sewers repairing streets and highways"¹ Medieval Europe preferred corporal punishments: floggings, corporal amputations, and executions. Imprisonment, as a form of punishment, was utilized only by the Roman Catholic Church,

¹Pliny, Letters and Panegyricus, trans. Betty Radice (Harvard University Press, 1969) Bk. X no. XXXI-XXXII, p. 205-207. On Roman usages see William W. Buckland, The Roman Law of Slavery (New York: AMS Press, 1969).

because the church was forbidden by canon law to shed blood. The town jail, in the Roman tradition, was not a place of punishment but only a place of detention before trial.

Spanish penal conditions and Spanish jails were similar to those in other parts of Europe. The prisoners either supported themselves or depended on public charity, a condition that doomed destitute prisoners to live in deplorable conditions. The clergyman Bernardino de Sandoval studied the problem in 1564 and concluded that "among the poor, there are none sadder nor more destitute than the prisoner and the imprisoned."² Those who survived detention and corporal punishment were ordered to leave the area, swelling the number of vagabonds and bandits who roamed the countryside, or were sent to the galleys to serve their king at the oars.

On January 31, 1530, Emperor Charles V commuted the traditional sentence of bodily mutilation and death to chained labor on the king's galleys.³ According to a petition from the Cortes of Valladolid in 1523, galleys were needed to patrol

²Amador Moro, "Bernardino de Sandoval," Revista de Estudios Penitenciarios, no. 165 (abril-junio 1964), p. 217. Sandoval's book, Tratado del cuydado que se debe tener de los presos pobres, was published in Toledo, Spain in 1564.

³Félix Sevilla y Solanás, Historia penitenciaria española (la galera); apuntes de archivo (Segovia, 1917)p. 30.

Spain's southern and eastern coasts to protect merchants from
⁴
 "the Moors, the Turks, the French and the pirates." Mandatory
 sentences to the galleys were gradually extended to almost
 anyone who came into the hands of the royal magistrates. The
 wars of the 16th century created an acute shortage of oarsmen.
 An anonymous memorandum dated January 31, 1598 lamented that
 "merciful" judges allowed too many vagabonds to escape a sentence
⁵
 to the galleys. To correct the situation, the rights of
 prisoners were drastically reduced. The process of appeal was
 limited, the commutation of a galley sentence to another sentence
 was forbidden, and finally the pardoning of galley slaves was
⁶
 prohibited.

Father Feijóo expressed grave doubts about the moral
 effects of galley punishments on the young in the 18th century.
 "A young man of twenty years," Father Feijóo wrote, "guilty of
 a crime equivalent to a capital offense, because of his age
 escapes hanging with a sentence of six or seven years of galley
 slavery. But why send him to the galleys, why place him in the

⁴Gregorio Lasala Navarro, Galeotes y presidiarios al servicio de la Marina de Guerra en España (Madrid: Imprenta del Ministerio de Marina, 1961), p. 11-12.

⁵I.A.A. Thompson, "A Map of Crime in 16th century Spain," The Economic History Review, 2nd series XXI (August 1968), p.246 footnote no. 6.

⁶Sevilla y Solanás, Historia penitenciaria española (la galera); apuntes de archivo, p. 34-35.

greatest school of evil that exists? Who can he meet in the galleys but accomplished masters of crime, full of schemes to commit every sort of infamy and when his sentence is completed, he will leave the galleys steeped in corruption, bolder and better instructed in cunning."⁷

The galeote or galley slave's utility was not limited to the galleys. Private contractors urged the royal government to assign them prisoners to perform hazardous work in the public interest. The mercury mines of Almadén were operated in the 16th century by the Fuggers, a German banking house. The Fuggers were obligated to deliver to the crown a quota of mercury, a vital element in the patio or amalgamation process used by the miners of New Spain to refine silver ores. The failure of the German concern to fulfill its quota of mercury forced the royal government to accede to their request, first made in 1559, to assign galeotes to work in the mines. Thirty prisoners were assigned to the mines in 1566.

The unhealthy work of mining mercury did not attract an adequate number of free workers. The shortage of labor served to justify the employment of prisoners. The galeotes were chosen from among condemned criminals collected at the royal jail of Toledo for transportation to the galleys. Once chosen,

⁷Benito Gerónimo Feijóo y Montenegro, Theatro critico universal (Madrid:J. Ibarra, 1769)VI, 42-43.

the forzados, as they were called, were turned over to an agent of the Fuggers. Manacled and chained individually and linked as a group with a heavy central chain, the forzados were marched to Almadén. The average life expectancy of a prisoner in the mines was 4 years. Despite this horrendous toll, the Fuggers were accused by the crown, as early as 1569, of preventing the legitimate release of prisoners.⁸

The exploitation of criminals, vagabonds, and social deviants was an obsession of 16th and 17th century European governments. Spain was forced by the necessities of war in the 16th century to develop the galley into a floating penal workhouse, which was comparable to the stationary workhouses established in other parts of Europe to extract labor from criminals and vagabonds. The Englishman William Petty represented the logic of the day when he asked in 1662: "Why should not insolvent thieves be rather punished with slavery than death?" Work, Petty reasoned, sustained by "as cheap fare, as nature will endure," was a far better punishment than the traditional "death, pillory and whipping."⁹ A century later, the Englishman Jeremy Bentham succinctly restated Petty's proposition when he introduced a plan of a

⁸Ruth Pike, "Penal Labor in Sixteenth Century Spain: The Mines of Almadén," Societas, Summer 1973, p. 194.

⁹Eli Heckscher, Mercantilism, trans. Mendel Shapiro, 2 vols (New York: Macmillan & Co. 1935)2, 297.

model prison and workhouse as "a mill for grinding rogues
¹⁰
 honest and idle men industrious."

The galley's success as a prison and workhouse influenced Magdalena de San Gerónimo to try to adapt the institution to the imprisonment of women. A workhouse to punish women existed in Amsterdam, Holland, but it appears that the Spanish nun was
¹¹
 inspired by the example of her own country's galleys. In 1608, she petitioned the bishop of Valladolid to grant her a license to establish "a galley and house of detention to punish vagrant women." Because there were galleys to punish men, she reasoned, "there should also be similar galleys to put delinquent women where they can be punished according to their faults." A license was granted in 1608, but if the institution was ever established nothing but the license has yet been found.

The purpose of Madre Magdalena's workhouse was to deter crime through harsh and terrible imprisonment. She proposed to reproduce in her prison "the same severity and sternness that exists in the galleys for men" To create this atmosphere the customs and practices of the king's galleys were to be

¹⁰ Eli Heckscher, Mercantilism, II, 298; see also Gertrude Himmelfarb, "The Haunted House of Jeremy Bentham," in Victorian Minds (New York: Harper Torch, 1970)p. 32-82.

¹¹ Thorsten Sellin, Pioneering in Penology: The Amsterdam houses of Correction in the 16th and 17th centuries (London: H. Milford, Oxford University Press, 1944).

literally followed. The women were to be dressed in the manner of galley slaves, their diet was to consist of "yellowish brown and black bread and if available hardtack, which is more appropriate, because the house ought to be in fact as in name" a reflection of the galleys.¹²

Spain's shortage of oarsmen and the priorities of her defense resuscitated the ancient punishment of galley slavery. The galley and its crew of slaves and penal workers was an influential penal institution. Moralists and jurists were impressed by the economic and moral benefits of penal labor. The royal government exploited penal workers directly on its galleys and in its presidios. Prisoners were also supplied to the privately operated mercury mines of Almadén, because mercury was needed to refine silver. The exploitation of penal labor was therefore guided by a concept of public utility that considered the prisoner an asset and led directly to the exploitation of his labor by the royal government.

The adaptation of the institution of penal labor in New Spain followed and interpreted Spanish precedents in order to supply labor to private as well as public enterprises. The direct exploitation of penal workers in government fortresses

¹²Sevilla y Solanás, Historia penitenciaria española (la galera); apuntes de archivo, p. 236. The Rule of the house appears in the Appendix.

played only a minor role in the institution's development in the 16th century. The term galeote, however, was used throughout the colonial period to describe prisoners employed in colonial workshops, sugar mills, mines, and estates. Certain industries and trades became notorious employers of penal workers. The colonial textile industry bought so many penal workers that a "sentence to work in an obraje" became a part of the colony's penal law. In practice, penal labor was not restricted to one industry. Prisoners were distributed throughout mining and agriculture; they worked in a variety of urban trades: in the bakeries, in the pork smoking shops, in the shops of shoemakers, iron smiths, and even confectioners. When the needs of colonial defense demanded labor, penal workers were sent to the fortresses and ports to supply the necessary auxiliary labor needed to support the colonial army and navy.

CHAPTER I

THE ORIGINS OF PENAL SERVITUDE IN MEXICO

Indian prisoners were among the first spoils sent back to Spain by Columbus from the island of Hispaniola. They were condemned, as prisoners of war, to be enslaved. On January 13, 1496, a cargo of 50 Indian prisoners was delivered to Captain Juan de Lescano. The Indians were destined to join other prisoners of war and slaves, unlucky victims of Mediterranean¹ naval warfare, at the benches of an oar-driven galley. The Spanish crown, however, had serious doubts about whether the colonists should be allowed to enslave the Indians of the Caribbean Islands. The issue soon became a question of conscience that ultimately led to a famous confrontation between Queen Isabella and her new admiral, Columbus.

¹DIA, 38, 352-353.

The Castilian Queen Isabella, the Catholic, to whom the Indies belonged, opposed the general enslavement of the Indian population by the Spanish colonists. Legend records that the pious and learned queen defended the freedom of her new vassals. Two ships carrying colonists and their Indian slaves, granted to them by Columbus, landed in Spain in 1500. The queen was present in Granada when the ships landed; news of the cargo of slaves reached the attention of the queen, and she made a public display of her anger. Indignantly, she denounced Columbus for daring to presume that he possessed the power and authority to grant her vassals to anyone. A public proclamation ordered the slaves freed and returned to their native land.²

The confrontation of interests represented a fundamental breach between the labor needs of the colonists and the crown's political and religious objectives. The question of Indian enslavement dominated Spain's affairs in the Indies for over half a century. Conferences of learned theologians, lawyers and ardent missionaries debated the issues of liberty and the rights of the colonizers. The survival of Spanish colonization

² Antonio de Herrera, Historia general de los hechos de los castellanos en las islas y tierra firme de el mar oceano (Madrid: Nicolas Rodriguez Franco, 1726) Decada I, Libro IV, cap. VII, p. 109-110.

was at stake and no one seriously considered that the Indians had a right to live unmolested. The debate was dramatically centered around the issue of slavery, but a rejection of slavery did not also imply a renunciation of forced labor and other forms of coercion.

The Indians of Hispaniola had no desire to become good vassals: to pay tribute, to become Christians and to work. On December 20, 1503, Governor Ovando was instructed to use force "because of the excessive liberty the Indians have been permitted, they flee and avoid the society and company of Christians, and even if offered wages they do not want to work, preferring to be vagabonds" The crown did not consider coercion to be a form of slavery, because "they are to be compelled as free persons, for such they are, and not as slaves."³ Spanish tutelage was called by the term encomienda. The Indians were placed in the care of a colonist to be instructed in Christian doctrine and European customs in return for labor.⁴

³ DIA, 31, 209-212.

⁴ The literature concerning encomienda, sometimes coupled with repartimiento, is long and controvertial. See F.A. Kirkpatrick "Repartimiento-Encomienda," Hispanic American Historical Review, XIX(1939), 372-379; also by the same author, "The landless Encomienda," HAHR, XXII(1942), 765-774. Lesley Byrd Simpson, The Encomienda in New Spain, the beginning of Spanish Mexico (Berkeley: University of California Press, 1950). Silvio Zavala, "De Encomienda y Propiedad Territorial en algunas regiones de la América Española," in Estudios Indianos (Mexico: El Colegio Nacional, 1948)p. 205-307.

10

The first Dominican missionaries reached the island of Hispaniola in 1510; the Sunday prior to Christmas in 1511, the Dominican friar Antonio de Montesinos offended the pious consciences of his Spanish congregation: "This voice says you are in mortal sin, that you live and die in it, for the cruelty⁵ and tyranny you use in dealing with these innocent people." The question of conscience raised by friar Montesinos effected more than the souls of the colonists. King Ferdinand, a pragmatic monarch not known for his piety, was alarmed at the priest's sermon. On June 6, 1511, the king reminded Governor Diego Columbus to baptize and instruct the Indians "in our holy Catholic faith, for this is the principal foundation upon⁶ which we base our conquest of these regions." Part of Spain's legal claim to the Indies lay in the Papal concessions, which were granted on the condition that the crown would support the clergy in converting the Indians to Christianity.

King Ferdinand called a conference of jurists and theologians to answer the Dominican challenge. The Laws of Burgos, issued in 1512, reiterated the rights and obligations

⁵ Lewis Hanke, The Spanish Struggle for Justice in the Conquest of America (Philadelphia: University of Pennsylvania Press, 1949)p. 17.

⁶ Ibid, p. 26.

of the colonists under the encomienda, especially the obligation
⁷
 to Christianize the Indians. The Dominican theologian Matías de Paz was asked by King Ferdinand to compose a defense of Spain's right to rule the Indies. Spain's authority in the Indies, the theologian explained, was supported by her Christian mission and the establishment of a Christian government made it lawful, "as is the case in all political rule," to exact labor from the Indians, "even greater services than are exacted from Christians in Spain, so long as they are reasonable, to cover the travel costs and other expenses connected with the maintenance of peace and good administration of those distant
⁸
 provinces."

The conquest of Mexico by Cortés, symbolized by the occupation of the Aztec capital of Tenochtitlán on August 13, 1521, opened a continent to Spain. The Indian population was agricultural, urban, and accustomed to organized labor. Encomiendas of Indians were distributed and an ample market in Indian slaves was developed. The royal government's first attempt to establish an Audiencia, a high court of justice,

⁷ A text of the Laws of Burgos can be found in Lesley Byrd Simpson, Studies in the Administration of the Indians in New Spain, Ibero-Americana #7 (Berkeley, University of California Press, 1934)p. 4-30.

⁸ Lewis Hanke, The Struggle for Justice, p. 27-28.

in New Spain ended in disgrace, when the magistrates used their⁹ powers to trade in Indian slaves. In 1529 the entire Audiencia and the treasury officials were replaced by a distinguished group of jurists.

New Spain's second Audiencia was carefully chosen to serve the king and not private interests. Experienced jurists and humanists were appointed: Bishop Sebastián Ramírez de Fuenleal, president of the Audiencia of Santo Domingo, was appointed president, and among the justices was the humanist scholar Vasco de Quiroga. When they arrived in Mexico, in the year 1530, the magistrates carried with them a royal cédula that prohibited the enslavement of the Indians by war or¹⁰ purchase. A compromise was soon needed, because colonial interests would not accept an absolute prohibition of the Indian slave trade and the Audiencia was powerless to enforce it. In 1531, Vasco de Quiroga proposed to the Council of the Indies that it authorize the Audiencia to sentence Indian

⁹Two of the justices, Alonso de Parada and Francisco Maldonado, died shortly after they arrived in New Spain; the court was therefore composed of Juan Ortiz de Matienzo, Diego Delgadillo and its nefarious president Nuño de Guzmán. Guzmán was already in New Spain "governing or more accurately destroying his jurisdiction of Panuco." Garcia Icazbalceta, Don Fray Juan de Zumárraga, in Obras de Garcia Icazbalceta (New York, 1968) 5, 31-37.

¹⁰DIU, 9,434-439.

criminals to work in the mines. Penal labor was originally proposed as a substitute for the Indian slave trade.

Penal servitude was less objectionable than the Indian slave trade, and the abolition of the slave trade was an essential objective of Spain's colonial policy.¹¹ Quiroga proposed, in a letter to the Council of the Indies, dated August 14, 1531, that sentences of penal labor be imposed "for the grave crimes of rebellion, homicide, human sacrifice, idolatry, theft and similar crimes which these natives frequently commit" The imposition of mandatory sentences to the galleys by Spain in 1530 was a comparable expedient and a recent precedent. The scholarly Quiroga also reminded the Council that "in the time of the good government of the Romans, they punished and condemned criminals to the mines"¹²

Penal servitude was considered by Quiroga and later by others as a merciful alternative to capital punishment. Quiroga was a sincere reformer: the creator of Santa Fé, a model Indian community based on Sir Thomas More's Utopia.¹³

¹¹ Charles Verlinden, "Medieval Slavery in Europe and Colonial Slavery in America," in The Beginnings of Modern Colonization, trans. Yvonne Freccero (Cornell University Press, 1970)p. 40-46.

¹² DIA, 13, 424-425.

¹³ Fintan B. Warren, Vasco de Quiroga and his Pueblo Hospitals of Santa Fé (Washington D.C. Academy of American Franciscan History, 1963).

The introduction of penal servitude into New Spain, the learned magistrate hoped, would allay the fears of the miners that an end to the Indian slave trade would reduce the supply of cheap Indian labor. Quiroga assured the Council of the Indies that the Indians committed "numerous" crimes that could be punished by work in the mines. Nevertheless, there was no reply from Spain, and on February 20, 1534, the royal government capitulated to the miners and the law abolishing¹⁴ the enslavement of the Indians was repealed.

Nevertheless, Quiroga's proposal did not remain dormant, but was soon applied to a variety of crimes in the Viceroyalty of New Spain. It is possible that the adoption of penal servitude in Mexico was not known in Spain until much later. An order from the queen to the Audiencia of Mexico, dated October 27, 1534, not to send criminal cases on appeal to the Council of the Indies, listed among punishments only¹⁵ death, loss of limb and torture. Mexican courts, however, were sentencing Indian rebels to slavery and, as the controversy over the New Laws suggested, other Indian criminals were auctioned to private individuals to work in chains. No royal objections were raised until the promulgation of the New

¹⁴CFS, I, 153-159.

¹⁵Ibid, I, 163.

Laws (1542-1543) called all Indian slavery once more into question.

The New Laws renewed royal opposition to the enslavement of the Indians. The laws decreed "that for no cause of war nor any other cause whatsoever, though it be under title of rebellion, ... can an Indian be made a slave" ¹⁶ On March 17, 1545, the Audiencia of Mexico explained in a letter to the king that Indian criminals were sentenced to periods of penal servitude, "and they are sold at public auctions by your Majesty's officials who apply the income from their sale to the Chamber of the Royal Audiencia ..." The court did not consider the punishment unusual and cited as precedent "those kingdoms where men are condemned to serve ¹⁷ their lives on the galleys"

The enactment of the New Laws shocked colonial opinion in New Spain. New Galicia was still suffering from the effects of the Mixton uprising of 1540. Viceroy Mendoza, who personally restored the province to Spanish rule, was also perplexed by the New Laws; on October 8, 1543, he asked

¹⁶ "The New Laws," in History of Latin American Civilization Sources and Interpretations, ed. Lewis Hanke (Boston: Little Brown, 1973)1, 109.

¹⁷ Epistolario de Nueva España, 1505-1818, ed. Francisco del Paso y Troncoso, 16 (Mexico: Antigua Librería Robredo, 1939-1942)4, 196.

the crown whether the new prohibition included the Indians
 18
 condemned to slavery, because of the recent rebellion.

Colonial consternation created candid support of the Royal
Audiencia's policy of penal servitude. Gómez Maraver, who
 was appointed bishop of New Galicia in 1547, wrote to the
 king in 1544 that the Indians ought to be enslaved "when they
 rebel or commit felonies against Spaniards because these
 people are bestial, ungrateful, evil, liars, capricious, and
 19
 at the moment shameless and impudent."

On February 20, 1548, the Audiencia of Mexico, by now
 aware that Spain could not enforce the New Laws, petitioned
 the king to reconsider his opposition to penal servitude.
 The court claimed that penal labor was more humane than the
 traditional corporal punishments, but yet severe enough to
 deter crime. Paradoxically, the advocate of a more humane
 form of punishment was sufficiently coldblooded to request
 that the crown once more permit the branding of prisoners,
 because "now all those condemned to servitude escape and
 little is recovered; thus, their crimes go unpunished and
 20
 those who rent their services are defrauded"

¹⁸ Silvio Zavala, Los esclavos indios en Nueva España
 (Mexico City: El Colegio Nacional, 1967)p. 110.

¹⁹ DIA, 8, 204.

²⁰ Epistolario de Nueva España, 5, 87.

Luis de Velasco replaced Antonio de Mendoza as New Spain's second viceroy in 1550. Velasco carried with him instructions from Prince Philip to solve the problem of labor shortages by compelling the idle to work. "And we identify idle Indians," the Instructions read, "as those that do not have a trade, nor an income to maintain themselves, and the same applies to Mestizos and Spaniards, ... because it is just, as it is here in Castile, that loafers and vagabonds be forced to work therefore it should be the same for Indians, Mestizos and Spaniards in that land, because laziness leads to numerous vices and crimes." ²¹ A sermon on the virtues of work harmonized well with colonial interests and presaged the adoption of a tougher labor policy that would not consider penal servitude abhorrent.

On June 12, 1550, Viceroy Velasco ordered the royal magistrates to arrest and punish vagrants with 100 lashes, and to encourage their arrest and eventual employment, anyone who denounced a vagrant was to be entitled, as a reward, to ²² his labor. Punitive laws, however, against vagrants and

²¹ Documentos inéditos del siglo XVI para la historia de México, ed. Mariano Cuevas (Mexico: Talleras del Museo Nacional de Arqueología, Historia y Etnología, 1914)p. 171-172.

²² Norman F. Martin, Los vagabundos en la Nueva España, siglo XVI (Mexico: Editorial Jus, 1957)p. 107.

vagabonds had little success. The viceroy was depressed by the immensity of the problem, and he expressed his views in a letter to the king on February 7, 1554. "I fear," he wrote, "that poverty and idleness will ruin the country the Mestizos are growing numerous, and they all have evil inclinations and dare any wickedness. They are so numerous that neither correction, nor punishment, nor ordinary justice
23
is sufficient."

Royal opposition to colonial penal servitude was dropped on June 3, 1555, when the Mexican Audiencia was authorized to use its own judgment about Indian criminals, except that none could be sentenced to "perpetual servitude." Limited sentences of penal labor, similar to galley sentences, were recognized as necessary and were justified on the grounds that New Spain had "no galleys, no frontiers nor other places
24
where they (the Indians) can be made to serve." The royal concession to colonial interests was softened by the limitation of sentences to periods of temporary servitude. The prohibition of "perpetual servitude" satisfied royal opposition to Indian slavery, but also appeased the colonial demand for Indian

²³ Documentos inéditos ed. Mariano Cuevas, p. 190-191.

²⁴ Recopilación de leyes de los reynos de las indias, 4 vols (Madrid, 1774) Libro 7, Título 8, Leyes 11-13.

forced labor.

Spain's acceptance of colonial penal servitude was anticipated in New Spain. The jails of Mexico City were full of "vagabonds and thieves and others imprisoned for minor offenses and debts" whom the magistrates released into the custody of private employers, after the prisoners had "voluntarily" consented to work for them.²⁵ Whatever fines and court fees the prisoners owed were paid by the employers who got their money back by deducting these sums from their wages. If an arrangement was not concluded in the public jail, the prisoners were auctioned to the public. The proceeds from the labor auctions supported the courts, compensated the injured, paid private debts, and taxes.

The collection of the royal tribute, a per-capita tax paid by the Indians in recognition of the king's lordship, benefited the class of encomenderos in the 16th century. Indians unable to pay the tax were arrested, whipped, their hair was cut, and their labor was "sold at public auctions, and at these auctions one sees them, in chains, sorrowful, unhappy, knowing not what to say or to whom they should complain.

²⁵Provisiones, cédulas, instrucciones de su majestad, ordenanzas de difuntos y audiencia para la buena expedición de los negocios y administración de justicia y gobernación de esta Nueva España, ed. Vasco de Puga, 2 vols (Mexico: Casa de Pedro Ocharte, 1878)2, 251-253.

Accompanied by their wives and children, they are sent to distant regions It is considered a great favor to them if the judge orders that they receive wages, and then they do not always get them."²⁶

The royal prohibition of "perpetual servitude" created a distinction between penal servitude and chattel slavery. An employer who acquired a prisoner did not buy the man but acquired a debt that obligated the prisoner to work for the duration of the labor contract. Eventually, the prisoner worked out his labor contract and was freed. The acquisition of a prisoner's debt did not legally impair the prisoner's status as a freeman. A debtor was obligated to work only for his creditor and the transfer of debts to third persons was prohibited in 1569.²⁷ Unlike slaves, penal workers were not considered property and were not leased as property. The prisoner's debt was a convenient instrument that transferred labor from the court to a private employer. The prisoner was therefore not a slave but a debtor who owed money and worked to requite the original debt.

The technical distinction between slavery and penal servitude had no relation to the treatment the prisoner received,

²⁶Alonso de Zorita, Life and Labor in Ancient Mexico, the brief and summary relation of the Lords of New Spain, trans. Benjamin Keen (New Brunswick: Rutgers University Press, 1963) p. 225.

²⁷"Sobre los obrajes," in Ordenanzas del trabajo, siglos XVI y XVII, ed. Silvio Zavala (Mexico: Editorial Elede, 1947) p. 140.

the actual duration of his servitude, or his longevity. A slave was protected by his value as a piece of property, but a penal worker had value only through his labor. Ruthless employers worked their prisoners as much as possible, fed them inadequately, and extended their length of imprisonment by lending them money, selling them merchandise on credit, or simply not releasing them when their contracts expired. In reality, prisoners had rights only in the presence of a magistrate and even before a magistrate a prudent prisoner did not complain.

Slaves and prisoners shared a common life within the obrajes or textile workshops that employed them. The two groups were sometimes recognized as simply slaves by the free workers who worked with them. They were however different and received different treatment. The long association of slaves and their owners often produced trust and the respect of skilled workmanship that eased a slave's life. The prisoners were rarely trusted; they wore chains and performed monotonous, unskilled work. The penal workers never left the workshop, which was a prison, guarded and locked.

All workers who owed the employer money were potentially prisoners. In many workshops no distinction was made between the criminals and the other civil debtors. Legal distinctions had no meaning inside the workshops which were governed by

the owner and his mayordomo or supervisor. Royal regulations protected the freedom of workers, limited debts, and outlawed abuses. The effectiveness of the royal ordinances, at least until the late 18th century, cannot be measured. The existence of workers's petitions and royal inspections do not constitute a proof of effectiveness. An environment that was conducive to the employment of prisoners was not conducive to the freedom of workers. Only an examination of individual obrajes and the lives of workers, slaves, and prisoners can reveal the actual state of liberty inside the workshops.

CHAPTER II

FORMS OF PENAL SERVITUDE

In 1557 Alonso de Zorita, a magistrate of the Royal Audiencia of Mexico, was sent to the town of San Juan Teotihuacán to investigate a charge that the town was in a state of rebellion. In actuality, the Indian leaders of San Juan Teotihuacán opposed the transfer of the town from the jurisdiction of the Franciscans to that of the Augustinians. In a clumsy effort to force compliance, the Augustinians chained and confined the Indian officials in the town jail. The jail was empty the next day and the Augustinians petitioned the Viceroy and the Audiencia to put an end to the town's resistance. Zorita arrived in the company of the alcalde (a magistrate) of Texcoco. They found the town silent and obstinate. Some form of punishment was considered necessary: Zorita arrested 60 Indians "and 20 were placed in obrajes

to serve six months as a warning to the town, and the other
40 were released"¹

The colonial textile industry was described by Viceroy Luis de Velasco II in 1595 as "the largest employer" of prisoners in New Spain.² One of the first foreigners ever to see an obraje was the Englishman Miles Philip, one of Hawkins's sailors captured after the battle of San Juan de Ulúa in 1568. His detention in a Texcoco obraje gave him the impression that the obraje was a "house of correction and punishment for ill people like to Bridewell here in London, into which Indians are sold for slaves, some for ten years, and some for twelve."³

The obraje was not a public workhouse, but a private textile workshop that employed free workers, slaves, and prisoners.

The obrajes of the city of Toluca employed in 1586 a workforce "of Indians, blacks, and mulattoes, both slaves and others sentenced by the magistrates to work in the obrajes,"

¹Jerónimo de Mendieta, Historia eclesiástica indiana, 2 vols (Madrid: Biblioteca de Autores Españoles, 1973)1, 207-209.

²"Ordenanzas para los obrajes," in Ordenanzas del trabajo, ed. Silvio Zavala, cap. 10, p. 160.

³Richard Hakluyt, The Principal Navigations, 12 vols (Glasgow: J. Macdosh & Sons, 1903-1906)9, 421.

because of crimes they have committed"⁴ The recruitment and retention of labor was a major factor in the textile industry's development. Unable in the 16th century to utilize the forced labor drafts of Indians that supported colonial mining and agriculture, the textile mills adopted unusual methods to obtain workers. Free workers were lured into the obrajes by wage advances and loans that kept them in the workshops. The system of debts, later known as debt peonage, began in the obrajes.

The obraje of Apizaco, in the province of Tlaxcala, was described in 1654 as "full of evil people, blacks and mulattoes, accustomed to committing all kinds of crimes" The prisoners attended mass "weighed down with shackles and chains" and parish Indians, forced to attend church services with them in the chapel of the textile mill, chose instead to leave their homes and their jobs. The local landlords, who employed the Indians on their farms and ranches, petitioned the Royal Audiencia to change the parish boundaries in order that their workers could celebrate the mass "without⁵ noise or scandal."

Penal workers were a natural supplement to an industry that depended on the coercion of labor. The penal character

⁴FHT, 3, 38.

⁵AGN, Civil, vol. 76, Exp. 33.

of the textile industry was still apparent in 1803, when the European scientist Alexander von Humboldt visited the textile mills of the city of Querétaro. An obraje resembled "a dark prison: the doors, which are thick, are always locked, and the workers are not permitted to leave." The obraje workforce consisted of "free men, Indians and men of color mixed with galeotes whom the magistrates send to the workshops in order to work. They are all half nude, covered with rags, thin and deformed." ⁶ The obraje's somber appearance reflected a history of labor coercion and penal confinement.

At the end of the 16th century, the Indian population of Mexico was seriously threatened by a combination of biological and sociological agents. The rapid population decline constituted a biological catastrophe of immense proportions. ⁷ A critical shortage of labor was created throughout the colonial economy

⁶Alejandro de Humboldt, Ensayo político sobre el reino de la Nueva España (Mexico: Editorial Porrúa, 1973)p. 452.

⁷The role of disease in the destruction of the Indian population is discussed in Alfred W. Crosby, "Conquistador y Pestilencia: The First New World Pandemic and the Fall of the Great Indian Empires," Hispanic American Historical Review, (August 1967)p. 321-338. The most comprehensive studies of the population of 16th century Mexico are those of Sherburne Cook and Woodrow Borah in Iberoamericana nos. 31, 35, 43, 44, 45 and 50. A summary of the controversy created by their findings can be found in Henry F. Bobyns, "Estimating Aboriginal American Population," Current Anthropology (October 1966)p. 395-415.

and the effects of the labor shortages were to further distort an economy lopsidedly dedicated to the production of silver. For many years the mining repartimientos had drained the Indian villages of men. As the pool of Indian manpower declined, the royal government endeavored to funnel all available labor into the mines. The textile industry was considered an expendible industry and its employment of Indian, as well as penal workers, a supplementary source of labor.

King Philip III ordered the Audiencia of Mexico on October 14, 1601 to end the sale of black and mulatto criminals to the obrajes in order to sell them exclusively to work in the mines.⁸ A comprehensive cédula on Indian labor was issued one month later, on November 24, 1601. The Viceroy of New Spain, the Conde de Monterrey, was instructed to prohibit and remove Indian workers and prisoners from Spanish owned obrajes and sugar mills.⁹ The intent of the prohibition was to aid the mines by closing the textile workshops to Indian labor. The crown advised the viceroy that the miners should buy black slaves, hire more free Indian workers, and obtain from the

⁸CFS, 2, 70.

⁹El obraje: documentos para la historia económica de México, ed. Luis Chávez Orozco (México: Talleres Gráficos de la Nación, 1936)11, 20.

royal courts "idle Spaniards Mestizos, free blacks and
¹⁰
 free mulattos"

To soften the devastating impact of the royal cédula on the textile industry, the Conde de Monterrey allowed the obrajes in 1603 to keep the Indian prisoners who were sentenced by the Royal Audiencia. The concession was only of minor comfort to the industry, because no new condemnations were permitted and all prisoners sentenced by inferior courts were ordered removed from the workshops. In addition, the amazed obrajeros found little consolation in the king's suggestion that they buy black slaves. In an industry notoriously dependent on cheap labor, black slaves were an expensive and
¹¹
 prohibitive luxury.

In the isolated valley of Oaxaca, the decrees had no effect until 1606, when an encomendero and town councilman from Yanhuitlan, Francisco de las Casas, reported to the viceroy that for some years the alcaldes sentenced "many Indians from his encomienda on criminal charges to work in obrajes, sending them to the city of Los Angeles (Puebla) and other places for their own self interest" The Viceroy, Juan de Mendoza y Luna, promptly ordered an end to the illegal

¹⁰
El obraje, ed. Luis Chávez Orozco, p. 25.

¹¹"Auto tocante a los Obrajes," in Ordenanzas del trabajo, ed. Silvio Zavala, p. 182-184; see also a petition from the obrajeros of New Spain, p. 184-187.

trade, and he also ordered the magistrates to send all serious
 12
 criminals to Mexico City for punishment.

The viceregal reprimand was a serious matter; the royal magistrates of Teposcolula and Yanhuitlan did not defy the law, but they may not have obeyed it. On August 26, 1606, after the reprimand, an Indian named Domingo Cima was found guilty of a number of thefts, including an altar cloth from a local village church. Cima owed the court 41 pesos, mostly for the restitution of stolen property. After a public whipping that consisted of 100 lashes, the thief was ordered banished from Teposcolula for a period of two years. The debt, however, kept Cima in jail until October 6, 1606, when Pasqual Vásquez, a mulatto slave who represented Antonio López from the city of Puebla, contracted with Cima to work for his owner. Antonio López presumably did not own an obraje, but it is significant that the contract did not include the nature of López's
 13
 business.

On December 2, 1610, two Indian prisoners were whipped in the marketplace of Teposcolula and then sent to the jail of the Royal Audiencia in Mexico City. They were too dangerous to be kept in Teposcolula's flimsy jail, because in addition

¹² AGN, Real Cédulas Duplicados, vol. 5, Exp. 24.

¹³ MNA, microfilm, Archivo de Juzgado de Teposcolula, Ramo Criminal, Serie Oaxaca, rollo 3.

to stealing horses and mules the prisoners had broken out of
¹⁴
 jail. The Royal Audiencia probably sold prisoners of this
 kind to the mines. Unlike the local courts, the Audiencia
 lost little income by not selling prisoners to the textile
 industry. An Indian named Juan Graviel, for example, was denied
 an appeal by the Sala de Crimen in 1628. The Sala de Crimen,
 the criminal branch of the Royal Audiencia, commuted the
 original sentence of 8 years of labor in an obraje to 4 years
¹⁵
 of work draining water from the silver mines of Zacatecas.

The right to employ penal workers in the mining of
 mercury, a form of labor exploited in the Spanish mines of
 Almadén, was conceded to the miners of New Spain. Convicted
 bandits, sentenced by the Royal Sala de Crimen, were sent to
 work in the mercury mines of Tetela, near the city of Taxco.
 The prisoners did not complete their sentences but were freed
 when the mines were plundered by a powerful gang of bandits
¹⁶
 in 1666. Friar Juan de la Cruz Durango was granted by the
 crown the right to purchase the labor of "delinquents who
 were sentenced to an obraje or a bakery" to work in a
¹⁷
 mercury mine in 1688.

¹⁴MNA, Serie Oaxaca, rollo 1.

¹⁵
 FHT, 6, 403-404.

¹⁶
 FHT, 8, 67-70.

¹⁷
 FHT, 8, 108.

The alcaldes regularly recruited vagabonds to work in the mines. The local ordinances that governed the mining district of Zimapan in 1730 included a law against vagrancy. The alcalde mayor (the chief magistrate) was empowered to arrest unemployed Indians and distribute them to the miners. Ironically, the law was perverted to prevent Indian workers from changing employers. An Indian who wished to change his job had to leave the district or run the risk of arrest as
¹⁸ a vagrant. The Ordinances of the General Mining Tribunal of New Spain, promulgated in 1783, included among the labor to be pressed into the mines "blacks and free mulattos who are vagabonds," unemployed mestizos, and "those who are sentenced because of crimes to some form of servitude." The miners could also obtain from the public jails mine workers, imprisoned for minor crimes and debts, if they had chains and other restraints
¹⁹ to prevent their escape. These laws were enforced, because in the mining district of Pachuca in 1791 the alcaldes arrested
²⁰ "vagabonds to drain the mines" of water.

¹⁸AGN, Criminales, vol. 257, Exp. 2.

¹⁹Recopilación sumaria de todos los autos acordados de la real audiencia y sala de crimen de esta Nueva España, ed. Eusebio Beleña Bentura, 2 vols (Mexico, 1787) 2, 214.

²⁰AGN, Civil, vol. 1624, Exp. 17.

The Holy Office of the Inquisition, established in Mexico in 1571 to ensure religious orthodoxy and to maintain public morality, favored penal servitude as a form of punishment. Galley sentences were imposed on Spaniards, free mulattoes, and on foreign residents. Bigamy, for example, a common offense among the Spaniards, who were often separated from their wives while they lived in New Spain, was severely punished. Bigamists were publically whipped 100, sometimes 200 times and then sent to Spain, or worse to the Philippine Islands, to work an average of five years without pay on the king's galleys.²¹

The majority of non-whites were sold by the Inquisition to private employers. Since the prisoners had no property that was worth confiscating, the Inquisition recovered the cost of imprisonment from private employers. The alcalde mayor of the city of Texcoco found a mulatto woman imprisoned in a local obraje in 1609. She was sold to the textile workshop on the orders of the Inquisition after she was found guilty of blasphemy. When discovered, the woman had been in the obraje one year "imprisoned and chained and during this time whipped many times with a leather whip."²² In the auto de fe of 1656,

²¹See Libro primero de votos de la Inquisición de México, 1573-1600 (Mexico: Imprenta Universitaria, 1949); a second book containing sentences from 1600 to 1641, but not yet published, can be found in AGN, Ramo de Inquisición, vol. 1516 (Lote Riva Palacio # 41).

²²AGN, Inquisición, vol. 322, folio 178.

a mestizo shoemaker was sentenced to 200 lashes and six years of chained labor in an obraje; the same sentence was imposed on a mulatto slave, Maria de los Angeles, who was found²³ guilty of sorcery and divination.

The elaborate ceremony of the auto de fe represented the spectacle of punishment as a solemn and baroque event. The rituals of secular punishment were similar, but less solemn and much less elaborate. Punishments and executions were very popular in Medieval Europe because they represented a form of public enthusiasm. "Tortures and executions," wrote the historian Johan Huizinga, were "enjoyed by the²⁴ spectators like an entertainment at a fair." Contemporary violence and brutality nourished a taste for popular sadism, but that alone may be too simple an explanation. A public execution was a staged, theatrical event that portrayed the lessons of justice. The utility of penal servitude did not replace the didactic value of a public spectacle. Paradoxically, the cost was transformed into a debt that the prisoner paid by his labor.

A typical spectacle of colonial punishment was performed on December 2, 1610 in the town of Teposcolula, in a part of the valley of Oaxaca known as the Mixteca Alta. It was a

²³José Toribio Medina, Historia del tribunal del santo oficio de la Inquisición en México (Chile: Imprenta Elzeviriana, 1950)p. 274-276. The royal government excluded the Indians from the religious jurisdiction of the Inquisition. The rest of the population, however, was subjected to its scrutiny.

²⁴Johan Huizinga, The Waning of the Middle Ages (New York: Doubleday Anchor Books, 1954)p. 24.

market day and the town was crowded with people from the countryside. A town crier led two Indian prisoners, mounted on pack animals, through the busy streets, enacting for all to see a common act of colonial justice. The town crier performed his duty and informed the people that the two prisoners, Domingo Gineco and Juan Nuco, were guilty of a number of crimes: of stealing horses and mules and of breaking out of jail. As he spoke, the prisoners were in agony as the 200 lashes, ordered by the alcalde mayor of Teposcolula, struck their naked backs. The punishment completed and in compliance with the edict of 1606, the two prisoners were²⁵ sent to the jail of the Royal Audiencia in Mexico City.

Most rural crimes were minor crimes related to drinking, fighting, sexual affairs, and family problems. Drinking was a common rural problem and ubiquitously appeared in most cases as a contributory factor.²⁶ Between September 9, 1606 and November 19, 1608, 183 Indian men and women were arrested in the town of Yanhuitlan in the Mixteca Alta. Intoxication accounted for 45 arrests, but alcohol was considered a factor in 84 arrests. The more serious offenses involved the family

²⁵MNA, Serie Oaxaca, rollo 1.

²⁶It is difficult to determine the legitimacy of pleas based on drunkenness, because the Indians were aware that a claim of intoxication lessened the punishment they received.

and public morals. Twenty-six men were arrested for the very common offense of beating their wives; they were similarly punished with a whipping, and they were required to perform a short period of forced labor. Two drunken men, who had verbally insulted some local women, were whipped 50 times and sentenced to one month of forced labor within the town. ²⁷

Public shame and derision were a part of the public spectacle of corporal punishment. A sexually promiscuous woman was punished in Yanhuitlan with 50 lashes, the loss of her hair, and a period of forced labor in a respectable private home. ²⁸ At the end of the 17th century, the Italian traveler Juan Francisco Gamelli Carreri watched the punishment of 3 women vagrants in Mexico City. After the women were publically whipped, they were taken beneath the wooden scaffold, ²⁹ their backs were daubed with honey and covered with feathers. In this condition, they were displayed and paraded through the streets to add public derision to the pain of physical punishment.

²⁷MNA, Serie Oaxaca, rollo 3: An inspection of the public jail of Yanhuitlan by Sancho Ortiz de Zuniga, alcalde mayor of Teposcolula, September 19, 1608.

²⁸Ibid.

²⁹Juan Francisco Gemelli Carreri, Las cosas más considerables vistas en la Nueva España, trans. José María de Agreda y Sanchez (Mexico: Ediciones Xochitl, 1946)p. 132.

An increase of crime and vagabondage was one of the effects of the growth of population that began in the late 17th century and continued throughout the 18th century. Critics of the judicial system blamed the increase of crime on the dilatory proceedings of the Sala de Crimen and on the reluctance of its magistrates to employ the death penalty against the criminal population of the country. To counteract the Audiencia's inertia, the crown elevated the Santa Hermandad, a rural constabulary created in the 17th century, into an independent tribunal called the Acordada in 1719. The new tribunal was freed of the restrictions of the Auto of 1601, which prohibited local magistrates from imposing corporal and capital punishment without prior consultation
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with the Sala de Crimen.

Without substantive figures on crime in the 17th century and without the records of the Royal Sala de Crimen, the only source for this kind of information, a quantitative evaluation of the court's performance cannot be made. The records of the Sala de Crimen are unfortunately incomplete.

³⁰ Alicia Bazán, "El Real Tribunal de la Acordada y la delincuencia en la Nueva España," Historia Mexicana 13 (Enero-Marzo, 1964) p. 324-325. The Auto of 1601 was suspended after the riots of 1624, but in 1695 the Audiencia again imposed on the local magistrates the restriction of 1601.

Contemporary criticism was based on emotions and impressions: not on any quantitative knowledge. The critics wanted fewer judicial delays and more convictions, more hangings, and more public displays. The latter were an important part of the public life of Mexico City. Seventeenth century diarists were fascinated by crimes and punishments; they shared the popular interest in executions and kept a careful record in their calenders of all public executions in Mexico City.

Six convicted bandits were executed in Mexico City in the last months of 1656. A glance at their identities reveal that they represented a broad social spectrum. On October 30, José Pérez Salamanca, identified as a Spaniard and the son of a respectable baker, was hung and his body quartered because he was a convicted thief and bandit. A week later three more Spaniards, two born in New Spain and one born in Castile, were also executed and quartered for banditry. On November 8, two days later, the hangman executed two Indians convicted of banditry, robbery, and murder. Finally on December 22, a massive execution was held; eight bandits were hung and seven of the eight corpses were quartered. The grisly remains were conspicuously displayed. Seven other accomplices, identified as mulattoes, Indians, and Spaniards, were whipped, and they were sentenced, in the company of a morisca procuress, to serve

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a period of penal servitude.

The executions were awesome and threatening symbols of public retribution. They were a useful deterrent to crime, but not sufficient to reduce or discourage a high crime rate. The Sala de Crimen displayed a large measure of restraint. The court refrained from committing massacres in the name of justice; humane and practical considerations supported a policy of limited executions. The royal court considered the punishment of exile to a distant region of the empire and chained penal labor in New Spain more practical and more humane. The two punishments constituted an alternative to unlimited executions. Of the two punishments, exile to the Philippine Islands was particularly feared, because of its distance from Mexico and its unhealthy climate.

The Philippine Islands were Mexico's penal colony and place of ultimate exile. The islands served a function comparable to that assigned to Chile by the Viceroyalty of Peru and the Audiencia of Quito.³² Their remoteness from Mexico guaranteed that any prisoner sent there would not return, at least until his sentence was completed. Forty-seven

³¹Gregorio M. de Guíjo, Diario, 1648-1664, 2 vols (Mexico: Editorial Porrúa, 1952)2, 68-73.

³²John Leddy Phelan, The Kingdom of Quito in the Seventeenth Century. Bureaucratic Politics in the Spanish Empire (Madison: University of Wisconsin Press, 1967)p. 200-201.

male prisoners, "the majority convicted of murder, robbery, and banditry," left Mexico City on February 28, 1658 for the western port of Acapulco and shipment to the Philippine Islands.³³ In 1666 don Francisco de Cicado was sentenced by the Sala de Crimen to serve 4 years of hard labor in the Philippines. To avoid exile to so remote a place, he came to some agreement with two of the Audiencia's magistrates, who reviewed the sentence and altered the place of confinement to the fortress prison of San Juan de Ulúa in Vera Cruz.³⁴

Spanish imperial defenses required the services of a large workforce. Penal labor, adapted to the needs of Spain's galleys, was put to other public uses as well. Mexico's large population and central location within the empire made her an important imperial source of penal labor. The court of the Inquisition was the first colonial tribunal to deport prisoners to Spain and to the Philippine Islands to serve in the galleys. By the end of the 17th century, Spain's imperial defenses included a string of important fortresses on her Caribbean islands, on the mainland, and in Florida. They too required workers and the prisoner was a proven source of cheap labor.

³³Gregorio M. de Guijo, Diario, 2, 90.

³⁴AGN, Reales Cédulas Originales, vol. 11; a royal cédula from the Queen, dated from Madrid, February 2, 1670, ordered an investigation of the magistrates's conduct.

Archbishop Juan de Ortega Montanes, Viceroy of New Spain, issued a set of ordinances in 1696 that prohibited the operation of a secondhand market in used goods anywhere in Mexico City. The markets attracted large crowds, mostly poor and unemployed people; they had rioted in 1692 and the memory of the event was revived when a small riot erupted in the central square and market place on March 27, 1696. The scaffold, which stood in the central square, a symbol of royal justice, was burned in the riot. The new ordinances were blunt: "Spanish and mestizo vagabonds are to be sent to the Philippines or to the fortresses of Santo Domingo, Puerto Rico and Havana's el Morro fortress" In the 18th century, workgangs of prisoners labored inside the fortresses, in the arsenals and in the dockyards.

There was relatively little government demand for convict labor until the 18th century. The impressive construction projects of the government and the church were built by free Indian labor. In emergencies, however, the colonial government added prisoners to the workgangs of impressed Indians who formed the hated repartimientos. The inundation

³⁵ Instrucción reservada que el Obispo-Virrey Juan de Ortega Montanes dio a su sucessor en el mando el Conde de Moctezuma, ed. Norman F. Martin (Mexico: Editorial Jus, 1965) p. 27.

of Mexico City in 1607 required a massive drainage project to clear clogged canals and the construction of tunnels to lower the water level of the lakes that surrounded the city. In the emergency Viceroy Velasco II ordered "that some of the blacks and mulattoes, freemen and slaves, imprisoned by the Justices in the city's jails serve and work on the drainage project"³⁶

The 18th century Bourbon government applied penal labor to the problems of urban sanitation. In the spring, prisoners from the public jails of Mexico City cleaned the canals of accumulations of garbage and debris.³⁷ The Marqués de Croix, who served as viceroy from 1766 until 1771, organized an urban corp of prisoners to clean Mexico City's streets and plazas. The presidio of San Carlos was designed in 1769 to house 160 prisoners, 36 carts, and 60 mules to collect litter and garbage.³⁸ To facilitate the collection of garbage, home owners were required to construct a container in a corner of their patios to hold "dry garbage, which they now throw in the streets, in the plazas, and in the canals" of the city. The process of collection was also organized. The

³⁶ Ordenanzas del trabajo, p. 128.

³⁷ Donald B. Cooper, Epidemic Disease in Mexico City, 1761-1813 (University of Texas Press, 1965)p. 19.

³⁸ AGN, Bandos, vol. 7, Exp. 33.

prisoners, organized into brigades, systematically collected³⁹ the garbage, which they hauled away in their carts. In 1773, however, the presidio was converted into a royal gunpowder factory by Croix's successor Viceroy Bucareli y Ursúa. The prisoners who had completed 2/3 of their sentences were freed, but the others were sent "to the bakeries, the pork⁴⁰ smoking shops, and the obrajes of this jurisdiction"

Public works also included labor on government construction projects, renovation of government buildings, and road work. In 1796 the Sala de Crimen sentenced Indians, convicted of minor crimes, as well as failure to pay the⁴¹ royal tribute, to 6 months of public work in Mexico City. Sixteen prisoners were employed in 1797 to repair the dilapidated Recogimiento of Santa María Magdalena, a royal workhouse and⁴² women's prison, in Mexico City. Petitions from outside of Mexico indicate that other cities also put their prisoners to work. The city of Pátzcuaro in Michoacán petitioned Viceroy

³⁹AGN, Bandos, vol. 7, Exp. 48.

⁴⁰AA, Presidio de San Carlos y la Casa de Pólvora, 1769-1826, leg. 3709, Exp. 2.

⁴¹AGN, Cárceles, vol. 29, ff. 58, 58v.

⁴²AA, Recogidas, vol. 3840, Exp. 22, ff. 239, 239v.

Bucareli in 1776 to allow Pátzcuaro to retain local prisoners⁴³
to repair an aging aqueduct.

It has been suggested that the Spanish preference for monetary compensation in place of capital punishment was⁴⁴
a legacy of Visigothic rule in Spain. Fines and monetary indemnities, however, would have been inapplicable to the poor without the mechanism of penal labor. The Royal Sala de Crimen admitted in 1765 that "there is no other way, in these kingdoms, to collect the amount of the condemnations but by putting (the prisoners) to work in the closed workshops of the cities and towns, in large and in small sugar mills, which hold them in custody and put them to work like their⁴⁵
slaves." The reduction of punishment to work was a modern application of the ancient penalty of hard labor; the monetary compensation of the injured, a legacy of Visigothic justice, was transformed into a source of judicial income by the sale of the labor of indigent prisoners.

The Royal Audiencia often claimed that penal labor was a humanitarian punishment. The claim can only be accepted

⁴³AGN, Cárceles, vol. 21, f. 222-224.

⁴⁴John L. Phelan, The Kingdom of Quito in the Seventeenth Century, p. 201.

⁴⁵AGN, Clero Regular y Secular, vol. 195, Exp. 3.

with hesitation. Any form of imprisonment was more humane than executions and corporal amputations, but the advantages of penal servitude, as a form of punishment, were its cheap labor and the income that it enabled the courts to receive. The prisoners financed their own arrest, imprisonment, and trial. Only a small amount of the income derived from the sale of penal labor was ever spent on the maintenance of prisoners. Prison conditions were uniformly terrible and were anything but humane. Whether the colonial government sold the prisoners or exploited them directly, the advantages of penal servitude were more than spiritual.

CHAPTER III

THE TRADE IN PRISONERS

The existence of a community of interest between the courts and the colony's industries and workshops formed the basis of an active trade in prisoners. In a speculative essay, Lesley Byrd Simpson noted that the recruitment of prisoners by the 17th century textile manufacturers of New Spain relieved labor shortages, and he found that the existence of numerous complaints created "the impression that a whole judicial system, or rather, a conspiracy of magistrates, courts and employers, functioned principally to keep a supply of cheap labor flowing to the obrajes and other worthy enterprises."¹ An active commerce in prisoners existed on

¹ Lesley Byrd Simpson, "Mexico's Forgotten Century," in Latin American History, Essays on its Study and Teaching, 1898-1965, ed. Howard F. Cline, 2 vols. (Texas: University of Texas Press, 1967)2, 504.

a local and on a regional level. Agents of the textile manufacturers, as well as other interested employers, attended the public auctions or contracted directly with the prisoners inside the public jail.

The town of Tilantongo was situated on the plateau of the Mixteca Alta, in north central Oaxaca. In 1596, Tilantongo was a part of the province of Teposcolula and it was governed by a royal corregidor. On July 13, 1596, the Corregidor Juan de Fuentes sentenced a wife beater named Sebastián Gómez to serve five years of penal servitude. After the trial, the prisoner was taken to the town square and presented, hobbled in leg irons, to the public for sale. The auctioneer announced that the period of Sebastián Gómez's servitude was to last "precisely five years" and he was to work "always in chains" The auctioneer started the bidding at 20 reales a month, but the bidding dropped to 10 reales before Antonio de Contreras offered the winning bid of 10½ reales for each month of Gómez's sentence.

Antonio de Contreras was a resident of the city of Antequera, situated in central Oaxaca. He represented, however, another resident of Antequera named Juan Díaz Pacheco on whose behalf he purchased the labor of the auctioned prisoner. The convict was delivered to Contreras in chains and the

corregidor was paid 78 pesos 6 reales. The money was divided into three parts: one third was set aside for the royal treasury, another third was given to Gómez's battered wife to pay her medical expenses, and the last third remained with the corregidor to pay the cost of Gómez's imprisonment and trial. The notary, for example, came from the provincial capital of Teposcolula, and he was paid 12 pesos for his work and other expenses.²

In the first decade of the 17th century, the textile manufacturers of the city of Puebla sent their agents to buy Indian prisoners from the magistrates of the Mixteca Alta. The trade flourished despite the existence of a royal cédula from King Philip III and a viceregal edict, issued by the Conde de Monterrey, that prohibited the employment of Indian labor in obrajes owned by Spaniards. In fact, there was no attempt to hide the existence of a trade in Indian prisoners, and officials of the Royal Audiencia participated in the illegal trade.

On April 4, 1605, an Indian named Andrés Pérez, imprisoned in the town jail of Teposcolula, was found guilty of killing his wife. The evidence indicated that Pérez was

²MNA, Serie Oaxaca, rollo 4.

intoxicated and that he suspected his wife of infidelity. The Indian was sentenced to receive 100 lashes, and he was ordered to pay the court 50 pesos in gold: 20 pesos for the support of his two children and the rest divided between the royal treasury and the local court. The alcalde mayor sent the judgment against Pérez to the city of Puebla, and on May 16, 1605, Francisco de Morales, owner of a Puebla obraje, agreed before a notary to hire Pérez, to feed and clothe him, to treat him humanely, and not to lend him more money than the amount stated in the contract.

An agent representing the manufacturer arrived in Teposcolula on May 25 to complete the agreement with the prisoner. Pérez had no alternative but to sign the contract, which he did with the aid of an interpreter. The original fine of 50 pesos was now a debt of 65 pesos, because Pérez was obligated to pay the cost of sending the judgment to Puebla, to pay the interpreters, the notary, and the other court officers. In short, Andres Pérez owed Francisco de Morales 26 months of work at a monthly wage of 2 pesos 4³ reales a month.

³MNA, Serie Oaxaca, rollo 3.

While contracting for Pérez's labor Morales's agent, Francisco Espinosa, found in the public jail of Teposcolula an Indian named Andrés Naqui. Naqui was convicted of killing his wife, while he was intoxicated. The Indian owed the court 75 pesos: a fine of 60 pesos, including 10 pesos spent on a mass for the dead woman, 2 pesos to send the judgment to Mexico City, 2 pesos to an assessor, and the remaining 11 pesos were divided between the notary and the court. On May 26, 1605, Andrés Naqui contracted with Espinosa to work in the obraje of Francisco de Morales for a period of 30 months. Espinosa paid the money and took the two prisoners⁴ back to Puebla.

A substantial part of a prisoner's debts were made up of judicial expenses. A document from the criminal archives of the town of Teposcolula itemized the judicial debts of a convicted thief named Andrés Jama. The Indian owed the court 39 pesos 6 reales, of which 25 pesos constituted restitution of stolen property. The remainder of the fine was distributed among the officers of the court. An itemized account of the debt and how it was distributed appears in table 1. Jama's labor was purchased by Martin Muñoz, a hat maker from the

⁴MNA, Serie Oaxaca, rollo 2.

5

city of Puebla on June 25, 1614.

TABLE 1

THE ITEMIZED LEGAL EXPENSES OF ANDRÉS JAMA

Judge	1 peso	6 reales*
Notary	4 pesos	4 reales
Interpreter		4 reales
Legal papers from Yanhuitlan	3 pesos	
Public Defender	2 pesos	
Assessor	3 pesos	
	total	<u>14 pesos 6 reales</u>

* 1 peso = 8 reales

The wages paid to a penal worker were determined either privately or in a public auction on the free market. The magistrates influenced the labor contracts that were drawn up in the public jails, and they usually obtained a wage that fluctuated between 2 and 3 pesos a month. The labor contracts signed in the Royal Jail of Teposcolula by agents of the textile workshops of the city of Puebla usually paid

⁵ MNA, Serie Oaxaca, rollo 5. Muñoz paid the court 41 pesos 2 reales or 2 pesos 4 reales above the actual condemnation. The additional amount corresponded to the agreed monthly wage and therefore may have been an advance.

a monthly wage of 2 pesos 4 reales. The sum was an average wage for the industry, because the textile workshops of Tlaxcala paid their spinners and carders, the least skilled workers, in 1630 an average of 2 to 3 pesos a month.⁶ The penal workers received the same pay since they performed the same work and were considered indebted free workers. The wages paid to prisoners remained stable throughout the 17th and 18th centuries. A wage of 3 pesos a month was paid in 1712 and it was still the standard wage in 1747.⁷

Towns without industrial workshops, sugar mills, or mines were dependent on the limited needs of local home owners, shopkeepers, and the church. The royal magistrates preferred to advertise their prisoners in industrial centers rather than sell them locally. If no outside buyers were available, an auction was the only way to empty the jail before the prisoners broke out, which was not an unusual event. Mateo Rodríguez was auctioned in the town of Teposcolula in 1626 in compliance with a judgment of 200 lashes and 2 years of penal servitude. The charges against Rodríguez were serious: he killed his daughter and severely injured his

⁶MNA, Archivo General de Tlaxcala, Serie Tlaxcala, rollo 3, no. 96. A visita of the obrajes of Tlaxcala contains lists of workers, their wages, and in some cases their debts.

⁷AGN, Criminales, vol. 137, Exp. 19; the sale of prisoners by the Inquisition in 1747 was based on a wage of 3 pesos a month. AGN, Inquisición, vol. 912, Exp. 65.

wife in a violent family dispute; but no one was willing to buy the prisoner when he was placed at auction. After several attempts to raise the bids, the auctioneer accepted a low bid of 12 pesos from a local resident.

Mexico City had a sufficient number of workshops and urban trades to absorb large numbers of penal workers. Auctions were apparently unnecessary, because the jailers found suitable employers within the city. The Inquisition in 1594 arrested four Indians on a charge of robbing its offices. The Holy Office imposed a lenient sentence, without monetary charges, on two of the four men. They were only whipped 100 times and publically shamed. The other two Indians were not as lucky. The Inquisition sentenced them to 200 lashes, a fine of 50 pesos, to pay for the repair of a wall damaged in the robbery, and the cost of their arrest, imprisonment, and trial. Julio Lucas was brought to a cloak maker, on August 27, 1594, to work one year in his shop for a sum of 27 pesos 4 reales: 25 pesos for the damage done to the wall and the remaining 2 pesos 4 reales "for food during his imprisonment and other costs associated with his arrest" The other man was leased to a baker to work one year in his shop, wearing chains, in order to earn 32 pesos 4 reales,

⁸MNA, Serie Oaxaca, rollo 6.

an amount slightly more than that owed by his compatriot,
 because the Inquisition added some of the stolen items to
 9
 his debt.

An investigation in 1721 of the distribution of white prisoners among the workshops of Mexico City revealed that a prisoner's trade was an important factor in the choice of an assignment. Candlemakers, iron smiths, confectioners, shoemakers, tailors, and weavers were able to be placed in their own trades. On April 29, 1713, Francisco Nicasio, a member of the guild of confectioners, was sentenced to serve two years in an obraje, but on the petition of his brothers the assignment was changed to the confectionary shop of Carlos
 10
 Villalobos. Many workshops, however, refused to take prisoners. The iron smiths, for example, refused to accept Nicolas Antonio, an iron worker, who was convicted of a robbery on November 26, 1717. The prisoner remained in jail 7 months before the jailers took him to the obraje of Joseph de Escorza, an obrajero who regularly bought penal workers
 11
 from them.

⁹ AGN, Inquisición, vol. 215, Exp. 8, ff. 17, 17v.

¹⁰ AGN, Criminales, vol. 75, Exp. 2, f. 75, 75v.

¹¹ AGN, Criminales, vol. 75, Exp. 2.

It was impossible to detain a prisoner in a colonial jail for a long period of time, because public maintenance was inadequate. Prisoners had to support themselves in the jails or they were forced to depend on public charity. Poor prisoners had to accept some form of penal servitude in order to survive. On May 4, 1604, Luis Núñez, a rancher from Tepeaca, accused four Indians of stealing and slaughtering his cattle. The alcalde mayor of Teposcolula found them guilty of the crime, but their court appointed defender appealed the decision to the Royal Sala de Crimen in Mexico City. Nine months later, on January 10, 1605, the four Indians "in the jail all this time, suffering deprivations, contracted with Luis Núñez to be taken from jail to watch his cattle" Núñez agreed to pay them 30 pesos a year in wages and to apply the wages to the payment of the court fines if they lost the appeal. On March 10, 1607, the Audiencia denied the appeal and the Indian prisoners were ordered to pay restitution at a rate of 2 pesos an animal.¹²

The racial composition of the penal population of New Spain reflected the general population of the colony. The large majority of the penal workers were Indians, blacks, and castas, the latter term was used to describe people of

¹² MNA, Serie Oaxaca, rollo 3.

mixed racial ancestry. The Sala de Crimen also sold white prisoners to the textile workshops or detained them in the workshops until they were transported to the Philippine Islands. The crown in 1726 prohibited the placing of Spaniards in obrajes, but until 1721, when a court case brought the practice to the attention of the king, the Sala de Crimen 13 did not distinguish skin color in the punishment of crime. Evidence collected in 1721 against the court presented 41 examples, dating back to 1689, from the books of the court notaries to substantiate the allegations.

The majority of white prisoners were born in Mexico and practiced a manual trade. They were all poor, which explained their inability to pay the fines and other costs that forced them to sign contracts of penal servitude. The weaver Martin de Dios, for example, was convicted of rape by the Sala de Crimen in 1704. He was sentenced to work 2 years in an obraje, but the sentence would have been commuted to 6 months if Martin de Dios had provided a bond of 50 pesos. The weaver was insolvent, and he was therefore taken by the jailers to an obraje, located in an area of Mexico 14 City known as the Lagunilla, to serve his full sentence.

¹³ El Obraje ed. Luis Chávez Orozco, p. 52.

¹⁴ AGN, Criminales, vol. 75, Exp. 2, f. 89v, 90.

Juan Francisco Crespo, a white shoemaker and a resident of Mexico City, was convicted of robbery by the Sala de Crimen on April 24, 1716. The court ordered that the prisoner be whipped and placed in an obraje for a period of 2 years. On the day Crespo received his corporal punishment, his mother petitioned the court to change his confinement to a royal fortress, because he was a Spaniard. The preponderance of non-white prisoners in the workshops stigmatized as "undignified" a punishment "that was usually imposed on slaves, blacks, mulattoes, and Indians"¹⁵ Ironically, Crespo's mother soon withdrew her petition when she learned that her son would not earn enough in the presidio to support her.

The white shoemaker was taken to the obraje of Joseph de la Vega, on March 12, 1717, and the obrajero paid the Sala de Crimen 72 pesos. Eight months later, on the night of November 21, 1717, Crespo escaped, but the prisoner was recaptured and taken back to the jail of the Audiencia to wait for a new trial. On February 23, 1718, the Sala de Crimen ordered that Crespo be whipped 50 times and, as a punishment for the escape, the remainder of Crespo's period of servitude was doubled in length. Joseph de la Vega, however, refused

¹⁵AGN, Criminales, vol. 134, Exp. 4, f. 53.

to take the prisoner back into the obraje, because "the security in his obraje is inadequate for this type of prisoner" Instead, the jailers took Crespo to the workshop of Joseph de Escorza, who frequently took prisoners from them. Escorza paid the new condemnation, which included part of Vega's original investment in the prisoner. It is unlikely that Juan Francisco Crespo escaped from Escorza's obraje, which apparently was more of a prison than the usual
 16
 urban workshop.

At the beginning of the 18th century, the Royal Sala de Crimen had organized an extensive and profitable trade in prisoners. Chain gangs of prisoners, collected in the jail of the Royal Audiencia, periodically left Mexico City to
 17
 serve in the fortresses and ports of Vera Cruz and Acapulco. The supply of prisoners, however, exceeded royal needs. The surplus was distributed among the rural obrajes, sugar mills, mines, and manufacturing cities of the Viceroyalty. The sale of prisoners subsidized the operation of the royal courts. Even the tribunal of the Acordada, a symbol of efficient and

¹⁶AGN, Criminales, vol. 75, Exp. 2; Joseph de la Vega was later interviewed, but he denied that the prisoner was a Spaniard. He swore that Crespo "was not a Spaniard, as he says, but a mestizo or a castizo"

¹⁷AGN, General de Parte, vol. 24, Exp. 318, f. 210-213.

stern justice, sold prisoners in order to help support the
 18
 operation of the court.

The city of Querétaro, in the fertile plain of the Bajío, manufactured a variety of course and quality textile cloth. Chain gangs of prisoners were regularly marched from Mexico City to Querétaro to be auctioned or sometimes simply distributed to the obrajeros of the city. On July 19, 1714, for example, a man identified as a Spaniard from the city of Cuernavaca, called Judas Tadeo, was convicted of robbery by the Sala de Crimen. After Tadeo received a corporal punishment of 200 lashes, he was placed on a chain gang that took him to the city of Querétaro. The prisoner was sold to
 19
 an obraje for a period of 8 years. The chain gangs that originated in Mexico City included prisoners from all parts of New Spain, including prisoners from the Audiencia of
 20
 Guadalajara.

The obraje of Joaquín Valins, an alcalde of the city of Querétaro, was inspected on April 29, 1717 by the royal corregidor. Inspections, to determine whether the labor

¹⁸ AGN, Acordada, vol. 1; see also FHT, 8, 269-270.

¹⁹ AGN, Criminales, vol. 75, Exp. 2.

²⁰ AGN, Historia, vol. 117, Exp. 16.

ordinances were being observed, were routine in the textile industry. The Inspectors counted the number of penal workers in an obraje and examined the legal judgments to verify the length of the sentences. There were 13 prisoners in Valins's obraje: 12 men and 1 woman, sold to Valins by an agent of the Sala de Crimen. The corregidor noted that all but the
21
woman "wore chains"

Indians from the borderlands of the North were imprisoned in the obrajes of Querétaro. Forty-two men, women, and children were sent from the city of Monterrey in the year 1734 to serve sentences of penal labor. The majority were Christians and, "although they do not appear to be capable of such crimes," they were convicted of murder and robbery. The Indians were kept in the public jail of Querétaro until the obrajeros appeared and requested the number they wanted. Within three days, the Indians were distributed, except for 2 men, described as Mecos, who were found dead on the floor
22
of the jail.

The mine owners of Chihuahua employed prisoners acquired from the Royal Sala de Crimen. The prisoners were

²¹ MNA, Archivo General del Poder Judicial, Serie Querétaro, rollo 25.

²² MNA, Serie Querétaro, rollo 25.

marched north from Mexico City to the present day city of Chihuahua, known in the 18th century as San Phelipe el Real, to work in the region's rich silver mines. In 1719 two Spaniards were sentenced by the Sala de Crimen to work in the mines of Chihuahua. Gerónimo de Valdez, a teamster, and Simón Antonio Pantaleón, a weaver, were both convicted of theft, and the two men were both sentenced to work in the mines.²³ The two Spaniards were among ten prisoners (2 Spaniards, 5 mestizos, and 3 mulattoes) delivered to Joseph de Zubiarte and Philipe de Orozco, wealthy Chihuahua miners and landowners, sometime²⁴ after 1720.

The acquisition of prisoners by private employers was not always voluntary. The obrajeros of Querétaro were threatened with a fine of 1,000 pesos, if they refused to purchase a prisoner from the Sala de Crimen.²⁵ A Mexico City merchant testified in 1721 that "he often heard the owners of obrajes complain that the Royal Sala de Crimen

²³AGN, Criminales, vol. 75, Exp. 2, f. 75, 75v.

²⁴The two Spaniards appear on a list of prisoners delivered to the mines. My appreciation to Mr. Philip Hadley who found this document and kindly gave me a copy. Archivo de Hidalgo del Parral, Chihuahua, microfilm, reel 1723B.

²⁵AGN, Civil, vol. 1628, Exp. 1, f. 4.

forced them to buy numerous Indians and mulattos, although²⁶ they did not need them" Apparently, the Sala de Crimen expected that the traditional employers of penal workers, such as the obrajes and the sugar mills, were obligated to purchase the labor of the surplus prison population.

Opposition to the repartimiento or distribution of prisoners was a natural consequence of the trade's systematic organization and compulsory extension throughout New Spain. On July 23, 1712, the royal government reprimanded the Sala de Crimen and its agents, because they forced Clara Martínez, owner of an obraje called El Molino Blanco, to buy penal²⁷ workers. Agents of the court, however, continued to pressure the workshop owners to accept prisoners. Alonso Segáde, owner of an obraje in the town of San Jacinto in Coyoacán, refused in 1716 to pay for a prisoner placed in the²⁸ obraje by an agent of the Sala de Crimen. Although individual obrajeros were able to obtain exemptions, the majority were apparently unable to resist the pressure.

²⁶ AGN, Criminales, vol. 75, Exp. 2, f. 128v, 129.

²⁷ AGN, Criminales, vol. 137, Exp. 19, f. 420-423.

²⁸ AGN, Criminales, vol. 137, Exp. 19, f. 414-415.

The policy of coercion was still in effect in 1765. The religious order of the Augustinians operated a sugar mill called San Nicolás in Izúcar. In 1765 the administrator of the mill refused to accept a prisoner brought to the mill by an agent of the Sala de Crimen. The Augustinians claimed that the mill was "an open shop where even the slaves are free and chains and jails would be inappropriate to the religious life" ²⁹ The claim of privilege was rejected, as was a similar claim made in 1753 by clerics who operated obrajes in the city of Puebla. In the case of the clerics from Puebla, the royal fiscal or attorney denied that religious privileges were violated, because "the workshops ³⁰ manufactured cloth, sugar, etc. for a public market"

The sugar mill of San Nicolás, as well as other sugar mills in the area, had not until 1765 been assigned any prisoners by the Sala de Crimen. The arrival of a chain gang was therefore resisted as a novel intrusion. There was, however, "a considerable number of prisoners" in the jail of the Audiencia who had to be sold. In this context, the court had no alternative but to force additional employers to buy prisoners. "In these kingdoms," the Sala de Crimen conceded,

²⁹ AGN, Clero Regular y Secular, vol. 195, Exp. 3, f. 29, 29v.

³⁰ Ibid, f. 32.

"there is no other way to collect the amount of the condemnations but by putting (the prisoners) to work in the closed workshops of the cities and towns, in large and in small sugar mills, which hold them in custody and put them to work like their slaves. To accomplish this important goal, chain gangs are sent in all directions to distribute the burden uniformly" The court concluded "that sugar mills, obrajes, pork-smoking shops, bakeries, and other workshops that are called closed, belonging to religious orders and clerics, are not exempted from receiving prisoners and criminals"³¹

The trade in penal workers was officially ended in 1767, but the institution maintained its usefulness to private employers as Alexander von Humboldt discovered when he visited the textile mills of the city of Querétaro in 1803.³² Abandonment of a lucrative trade by the royal

³¹AGN, Clero Regular y Secular, vol. 195, Exp. 3. A closed workshop was essentially a workhouse; the doors were locked and only workers who were trusted and free of debts were allowed to leave. The distinction between "closed" and "open" workshops can be discerned in the earliest colonial ordinances that deal with the obrajes. See Viceroy Martín Enríquez's ordinance of 1569 in Ordenanzas del trabajo, p. 141-145.

³²AGN, Bandos, vol. 6, Exp. 68. The famous ordinance of the Marqués de Croix, regulating labor in the obrajes of New Spain, began with a prohibition of the sale and presence of prisoners in the obrajes of New Spain.

government did not represent a change of policy, but only a change of priorities. The era of colonial warfare expanded the role of the military in the affairs of the colony. Public as well as private needs were sacrificed to the larger needs of colonial defense. Jacinto Martínez de Concha, the chief magistrate of the tribunal of the Acordada, informed the viceroy in 1761 that prisoners were "more useful to the king" ³³ working in the presidios than in the obrajes.

Royal paternalism fostered the illusion that changes of social policy were improvements of public morality. A justification based on expediency or utility was not an adequate explanation of social change. The abolition of the trade in prisoners was not an exception. It was preceded by reports that pictured imprisonment in the king's presidios as more humane than labor in the obrajes. On April 30, 1767, Antonio Carmide Isasan, the royal fiscal, wrote:

criminals sentenced to the harshest galleys or to the presidios of Africa suffer only half as much punishment, work, and misery as those sentenced to the obrajes In the presidios, the criminals receive adequate clothing against the cold; but in the obrajes, they are given only what is necessary to preserve modesty, a coarse cotton manta, which they call a frazada. In actuality, they are naked In the presidio, they are given an adequate ration to eat to maintain their strength in order to work, but in the obrajes, they must eat tortillas, beans, and peas, a diet better suited to pigs than rational

³³ AGN, Acordada, vol. 2, f. 41-47.

beings In the presidios, the overseers treat them with charity, and if an overseer should go too far, his superior will reprimand him but in the obrajes no one is over the mayordomo. He is free, without constraints, and the unfortunate criminals have no one to remedy their complaints. In the presidio, if a criminal is sick, he is taken to a doctor; but in the obraje, he is treated worse than if he was healthy; if the town has a hospital, at the end of 15 days, he is thrown in the gutter where mercifully no one will help him and he will die from want; but if by chance he recovers, he will be taken back into the obraje to work. (34)

Throughout the colonial period, private employers, in need of additional workers, obtained prisoners from the royal courts. The trade in penal workers evolved from simple contractual arrangements between employers and prisoners to a compulsory repartimiento. The collection of fines and court costs was sufficient to induce the Royal Audiencia to organize the trade into a stable source of revenue. Despite opposition from disgruntled employers, unprepared to assume the burdens appropriate to the operation of penal workhouses, the trade in prisoners expanded and flourished. New Spain's abundant penal population was also able to support government fortresses within New Spain, in the Caribbean, and in the Philippines. As long as there was peace, the colonial government enjoyed both free labor and an income from the trade in prisoners.

³⁴Miguel Othón de Mendizábal, "Las Artes Textiles Indígenas y la Industria Textil Mexicana," in Obras Completas, 6 vols (Mexico, 1946)6, 419-420.

The lucrative penal trade, promoted by the Sala de Crimen, was finally undermined by the overwhelming labor needs that resulted from the intense colonial warfare of the second half of the 18th century. Penal servitude was instituted as a military expedient by Spain in the 16th century, and Spain's almost constant involvement in war monopolized the labor of her penal population. New Spain, on the contrary, did not have important military needs until the 18th century. When the colonial peace was shattered by a fact as blatant as the English occupation of Havana in 1762, the colonial prisoner was made to serve a military function comparable to that performed by his counterpart in Europe. The trade in prisoners, which had yielded an important royal income, was sacrificed, and although the trade, on a much smaller scale, continued to exist, it accounted for only a small percentage of the available penal population.³⁵

³⁵Available statistics collected from the records of the tribunal of the Acordada indicate that the sale of prisoners to the obrajes and other workshops was negligible in the second half of the 18th century. See Alicia Bazán, "El Real Tribunal de la Acordada y la delincuencia en la Nueva España," Historia Mexicana, 13(enero-marzo, 1964) p. 334-337. Bazán's figures clearly show that the Acordada chose to send prisoners to the presidios rather than sell them to private workshops. Comparable statistics for the Royal Audiencia, unfortunately, do not exist, but long lists of prisoners collected in Mexico City for transportation to Vera Cruz, Havana, and Puerto Rico in the 1790's indicate that the penal trade had clearly shifted to the presidios. See AGN, Cárceles, vol. 1, 4, 7, 8, 13.

CHAPTER IV

THE ILLEGAL PENAL TRADE

Throughout the colonial period the legal trade in prisoners was supplemented by an unlawful commerce in penal workers. The trade was facilitated by the cooperation of the colony's magistrates and employers. The establishment of penal servitude had converted the public jails into labor exchanges and the magistrates into labor brokers. Corrupt public officials supplied penal workers to needy employers who looked to the public jail to satisfy their labor needs. Ironically, royal efforts to protect free Indian labor was often subverted by the magistrates. Although Viceroy Luis de Velasco II's Ordinance of 1595 limited the amount of debts free Indian labor could assume, no limitation was imposed on Indian penal labor. Judicial debts, which resulted from crimes, were still a legal form of Indian bondage.¹

¹"Ordenanzas para los Obrages," in Ordenanzas del trabajo, p. 160.

The Royal Audiencia in 1590 prohibited the Governors and magistrates of the barrios of San Juan Tenochtitlán and Santiago Tlatelolco, the two Indian quarters of Mexico City, as well as the jailers who operated the public jails, from imprisoning Indians "brought by persons, on their own authority, for debts, ... services, ... or thefts, which they say they have committed without an order from the magistrates or ² alcaldes of this Royal Audiencia." The Spaniards, however, who owned obrajes and bakeries within the barrios, were still able to circumvent the prohibition. The Viceroy, Diego Fernández de Córdoba, Marqués de Guadalcázar, was informed by his Attorney General of Indian Affairs in 1618 that the obrajeros and bakers brought Indian employees, who owed them money, "before the magistrates of the districts of San Juan and Santiago on minor charges, trumped up crimes, which are actually civil cases, and in this way many Indians are sentenced to work, hobbled by chains, in the obrajes and in the ³ bakeries"

² Recopilación sumario de algunos autos acordados, de la Real Audiencia, y Chancillería de la Nueva España, que reside en la Ciudad de Mexico desde el año de 1528, en que se fundo, hasta este presente año de 1677; con los ordenanzas para su gobierno recogidos por el doctor Juan Franco de Montemaior de Cuenca, su oidor en ella, (New Spain, 1677)p. 33.

³ FHT, 6, 323.

Philip III's prohibition of Indian employment in the textile industry reduced the available supply of labor and severely limited the ability of a new owner to acquire additional workers. Some obrajeros were able to operate outside the law by obtaining Indian prisoners from the public jail. A connection to the local jail, either through a corrupt magistrate, a well placed relative, or a friend, usually sufficed to supply the workshops with all the manpower they needed. In 1607 an unlicensed obraje was illegally opened in the city of Tlaxcala; the workshop was conveniently located⁴ behind the public jail. Although it can only be assumed the location of the obraje facilitated the acquisition of prisoners, Bernardo de Avila, without a doubt, made good use of a similar location to employ in his obraje Indian prisoners from the public jail of Tlaxcala. Avila's brother was a public notary, and it was through him that the obrajero was able to obtain from the jail all the Indian prisoners he needed to⁵ work in his textile mill.

⁴ FHT, 6, 161-162.

⁵ FHT, 6, 283-284; the Indians of the town of San Nicolas Tetelzingo, in Quautla, petitioned the Audiencia in 1715 to investigate their Indian Governor Pasqual Francisco. The Governor was accused of arresting Indians in order to send them to work, without pay, in the sugar mill of his "compadre" Manuel de Rivera. See AGN, Criminales, vol. 214, f. 46v.

The detention of prisoners outside the public jails was a convenient subterfuge to mask the illegal arrest and confinement of workers. Women, for example, were usually placed in private homes, convents, or workshops rather than in the disreputable environment of the public jail. Almost anyone acquainted with the public jails recognized the validity of the custom, but no one was able to prevent corrupt officials from detaining innocent people in the obrajes in order to sell their labor. The Indian Court was petitioned in 1637 to remove the Indian Governor of Tlaxcala, Diego Jacinto, because he arrested Indian women for alleged misdemeanors and placed them, before their trial, into the house and trapiche (a small workshop) of Francisca Niño. The Indian women were employed as spinners, but they were not paid.⁶

A century later, the parish priest of San Nicolás Panotla informed the Audiencia that the Indian alcaldes were selling the labor of Indian prisoners to the obrajes of Tlaxcala. The petition reached as far as the king and brought an immediate response from the Audiencia. The alcaldes of Panotla were ordered in 1740 to restrict their activities to investigations and arrests, and they were further ordered to bring their prisoners to a public jail in the nearest Spanish

⁶ FHT, 7, 137-139.

town. Apparently, the alcaldes were selling their prisoners, as a result of fines and other court related expenses, to the obrajes and workshops of Tlaxcala. The business was conducted privately and without the knowledge of the royal government.⁷

The mine owners of Pachuca petitioned the Viceroy, Antonio Sebastián de Toledo, Marqués de Mancera, in 1673 to investigate the Alcalde Mayor Andrés de Alzate. The mine owners complained that Alzate, without consulting the Sala de Crimen, arrested their Indian workers and sold them to local bakers and merchants. The alcalde mayor, aided by a deputy and two constables "spent Sundays and holidays arresting all the Indians who wandered through the town, and he took them to the public jail in order to collect 4 or 5 pesos for each Indian" he sold.⁸ Alzate exploited his office to function as a local labor broker, which was not an unusual abuse. The victims of his greed, however, worked for the mine owners, and in a colony dependent on mining the alcalde mayor showed very little political wisdom.

⁷ MNA, Serie de Tlaxcala, rollo 9.

⁸ FHT, 8, 93-99.

The government campaign against the abuse of labor in the textile industry was detrimental to the political ambitions of the obrajeros. García de Cisneros, a descendant of the conquistadores and a member of an illustrious colonial family, petitioned the Marqués de Cerralvo, Rodrigo Pacheco y Osorio, in 1631 to allow him to stand for election to the office of alcalde of the city of Valladolid in the province of Michoacán. Cisneros's candidacy had been challenged by "newcomers" to Valladolid who opposed the election of an obrajero. Other members of Cisneros's family had owned obrajes and served in public office, and Cisneros considered the attack on his candidacy a calumny "since the ownership of an obraje is noble and is not infamous" The petition was granted, but the viceroy cautioned Cisneros not to employ⁹ any Indians in his workshop. Cisneros's background, rather than his logic, prevailed. Two years later, however, the Marqués de Cerralvo clarified his point of view in a new set of ordinances regulating the obrajes in 1633. The viceroy prohibited an owner from serving as an alderman, a royal magistrate, or on any other secular or ecclesiastical¹⁰ tribunal.

⁹FHT, 6, 536-537.

¹⁰AGN, Civil, vol. 1735, f. 364.

Andrés de Mier y Terán, an alcalde of the Santa Hermandad, operated an obraje in the city of Querétaro in 1722. The newly organized tribunal of the Acordada, led by the able and honest Miguel Velázquez, put an end to the alcalde's business in 1722. The workshop was closed, and the workforce was scattered among the city's public jails and obrajes. Andrés de Mier y Terán paid a fine of 500 pesos to his superior Miguel Velázquez. The fine represented only a fraction of the alcalde's actual loss. In a petition to the Audiencia in Mexico City, Mier y Terán requested a temporary license to open a small workshop of 8 looms in order to recover more than 5,000 pesos that he claimed he spent to acquire a workforce. The reply was remarkably sympathetic: a temporary license was granted to operate a workshop of 6 looms, but his commission was suspended during the life of the license. The Audiencia also allowed him to regain the majority of his workforce, but denied him the labor of any prisoner obtained as a result of his commission as an alcalde of the Santa Hermandad.¹¹

The supremacy of royal law was a basic principle of colonial jurisprudence. The ecclesiastical courts were required to issue sentences in conjunction with a judgment from a

¹¹AGN, Tierras, vol. 1416, Exp. 4.

secular court. As early as 1569, the obrajeros were prohibited from accepting a prisoner from an ecclesiastical court without the corresponding secular judgment.¹² On the whole, the relationship between the Royal Audiencia and the Church was cordial and friendly. Conflicts arose over the issue of ecclesiastical sanctuary, which was often claimed by escaped criminals, but the issue was only of importance when a fugitive was politically important. Cooperation was normal and was a result of a natural harmony of interests. The ecclesiastical recogimientos or women's prisons, for example, always accepted prisoners from the royal jails. Rarely did the royal government pay for their food and maintenance.

The confirmation and oversight of ecclesiastical sentences by the royal courts was rarely a source of friction. In 1739, for example, a mestizo named Gregorio García was convicted in the Archbishop's court of "gross crimes of sensuality." As a result of his conviction, Gregorio García was sentenced to 200 lashes and 10 years of imprisonment in an obraje. The Sala de Crimen approved the ecclesiastical judgment and as the representative of the secular government executed the sentence. When the Sala de Crimen was informed in 1765 that an Indian was placed by the court of the Archbishop

¹² "Sobre los obrajes," in Ordenanzas del trabajo, p. 142.

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¹² "Sobre los obrajes," in Ordenanzas del trabajo, p. 142.

into a Mexico City obraje to satisfy a civil judgment, the royal court immediately ordered the Indian's release. Secular supremacy included the confirmation of a civil judgment, if fulfillment of the judgment led to the sale of the prisoner's labor. The Indian owed a dowry, which was an ecclesiastical matter, but the judgment against him required secular
¹³
 execution.

The lower clergy, more frequently than the clerical hierarchy, acted on it's own authority and without the knowledge of the royal government. They exercised quasi-judicial authority over the Indians and the castas (people of mixed racial origins) in their local parishes. Protected by their obscurity, as well as by their personal relationships, the priests were able to imprison people inside the obrajes. The parish priest of Zumpahuacan in Malinalco in 1761 sought the arrest of two Indians from his parish. One man, charged with fornication, fled before his arrest; the other man, Juan José, owed the priest 30 pesos. Juan José was eventually sold to an obraje for a price of 40 pesos. The Audiencia found that in both cases the priest had acted outside of the law
¹⁴
 and on his own authority.

¹³ AGN, Criminales, vol. 58, Exp. 20.

¹⁴ AGN, Criminales, vol. 17, Exp. 21.

Unlawful imprisonment was an inherent danger of any system of private imprisonment. Private individuals imprisoned members of their families, servants, employees, and debtors. The workshops were convenient disciplinary institutions, and they served as private correctional workhouses. The saintly priest Domingo Pérez de Barcia, who established in 1683 a house of charity for poor women in Mexico City, called San Miguel de Bethlén, threatened a careless female slave that if she did not improve "he would send her to an obraje" The biographer was pleased to record that the threat was effective.¹⁵ The association of the colony's workshops and mills with imprisonment and punishment confused the goals of production with the problems of correction. The blending of the two produced only melancholy workhouses.

The penal separation of men and women was firmly established in colonial law. The public jails were required to have separate cells to imprison women.¹⁶ The jails, however, were crowded and poorly managed, and the separation of the

¹⁵ Julían Gutiérrez Dávila, Vida y virtudes de el siervo de Dios, el venerable padre D. Domingo Perez de Barcia, presbytero secular, fundador de la casa y voluntario recogimiento de mujeres nombrado San Miguel de Bethlén, en la ciudad de Mexico (Madrid, 1720)p. 331.

¹⁶ Recopilación de las leyes de los reynos de las indias, Libro VI, Título 6, ley 2.

inmates was not always enforced. Similar conditions existed in the workshops. Single women were required by law to sleep in a separate dormitory, but the law was not always obeyed.¹⁷ It was alleged, for example, that a woman prisoner slept inside the obraje of Balthasar de Sauto, located in the town of San Miguel El Grande, in 1767. Actually, the woman slept in the home of the mayordomo, but she was sold to a bakery to avoid scandal.¹⁸ Whether the charge was true or not, it was assumed that promiscuity resulted from the close confinement of men and women.

An enterprising woman in the city of Puebla operated a textile workshop that exclusively employed female prisoners. The house was "a type of private jail or house of correction" established in the city of Puebla in 1785. María Gorospe was able to obtain penal workers from the city's secular and ecclesiastical judges and from private individuals who lived in the neighborhood. The local residents disciplined disobedient wives and daughters with short periods of imprisonment inside the workhouse. María Gorospe did not have a license to operate either a workshop or a prison. Nevertheless, she obtained

¹⁸"Sobre los obrajes," in Ordenanzas del trabajo, p. 143-146.

¹⁹AGN, Tierras, vol. 932, Exp. 1, f. 261.

prisoners from the royal magistrates, because Puebla's public jail was crowded and morally unsuitable as a place of detention.

María Gorospe's textile workshop resembled many of the other obrajes that existed in the manufacturing city of Puebla. The inmates were required to spin 4 ounces of cotton a day, and they were paid a small wage from which they purchased supplementary necessities. Those unable to complete the daily assignment were denied a salary and had to obtain what they needed from their families or on credit. At the end of their imprisonment, each woman was given half a peso. María Gorospe's reliance on penal workers guaranteed her a docile workforce without the expense of wage advances and bonuses. Her only employee was a woman guard; her expenses were limited to the purchase of raw materials, maintenance of the workshop, and food for the inmates. Puebla's more respectable obrajeros would have envied the control she exercised over her workforce of prisoners.

Discipline within the workhouse was severe. The work rules, as well as the other regulations that governed the house, were enforced by the whip which provoked the prisoners to complain to the Intendant of Puebla. ¹⁹ Despite the fact

¹⁹AGN, Cárceles, vol. 13, f. 57-58v.

that Maria Gorospe lacked an official license to operate a workhouse, she proudly proclaimed that the community approved of her methods. Unlike the public jail, no communication or business was transacted at her door or through the windows of her house. Locked doors and windows, however, did not prevent theft. Although the cotton was weighed before and after work was done, the women allegedly stole between 3 and 4 pesos of cotton a week, hiding the cotton in balls to be somehow passed out of the workshop for sale on the street. ²⁰

Viceroy Revillagigedo ordered the workhouse inspected in 1791. According to a list of the inmates, compiled during the inspection of the workhouse on July 9, twenty-eight women, from 15 to 40 years of age, were imprisoned in the house; eight women were described as white, 5 as mestiza, 14 as Indian, and 1 as a parda. Almost all were in the workhouse less than 6 months and all of their offenses were minor. Fifteen women were imprisoned because of a dispute with a husband, parent, or guardian, and 5 women either deserted or fled their homes. Seven women were involved in some form of illicit sexual behavior, and 1 woman was charged with prostitution. The workhouse was also not exclusively used for punishment: in two cases women were confined in order to force

²⁰AGN, Cárceles, vol. 13, f. 59-62v.

them to marry, and 1 young woman was detained to protect²¹
her from the sexual abuse of a stepfather.

Despite María Gorospe's success, experience showed that the penal population of Puebla's ecclesiastical Recoqimiento of Santa María Egipcíaca did not make good workers. One hundred and thirty-two prisoners were detained in La Egipcíaca in 1772. The workhouse belonged to the bishop of Puebla, but prisoners also came to the workhouse from the royal jail. In December of 1772, the prison was too crowded to accept any more prisoners from the royal jail, and an official inspection was made to verify the fact. The results of the survey, which appear in table 2, proved the prison was in fact over crowded; a majority of the prisoners were being held for minor offenses, usually of a sexual nature. The royal magistrates sent prisoners from the royal jail to the recoqimiento without any financial support. Under these circumstances, the bishop refused to accept any more prisoners.

The inmates imprisoned in the Recoqimiento of Santa María Egipcíaca were required to spin 4 ounces of cotton a day. The task was a normal daily assignment in any textile workshop, but the inmates resented the work. A prostitute, who was found sweeping the patio of the prison, candidly told a royal inspector that she preferred to be returned to the

²¹

AGN, Cárceles, vol. 13, f. 70.

TABLE 2

INMATES OF THE RECOGIMIENTO OF SANTA MARÍA EGIPCIACA IN THE CITY OF PUEBLA, 1772.

<u>Cause of Arrest</u>	<u>Indian</u>	<u>Mestiza</u>	<u>White</u>	<u>Castiza</u>	<u>Unrecorded</u>	<u>Percentage of Total</u>
Sexual Incontinence	10	4	5	1	27	36%
Illegal Possession of Alcohol	23	3	0	0	7	24%
Prostitution	0	0	0	0	6	5%
Cohabitation	1	0	0	0	4	4%
Personal petition of relative	3	1	3	0	8	11%
Communal Steam Bathing*	4	1	0	0	0	4%
Unknown or other causes such as theft or vagrancy	4	2	0	0	15	16%
TOTALS	45	11	8	1	67	100%

SOURCE: AGN, Cárceles, vol. 15, f. 24-26v.

* Steam bathing in a temazcal or bathhouse was an Indian custom; the temazcal, built of unbaked bricks, resembled a large oven. The steam bath was a traditional form of relaxation and an aid in the cure of pains and illness. The royal government wanted the bathers to bath separately according to their sex.

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royal jail, because in the jail she was not forced to work. Prisoners malingered and many were not fit to work, "because some are excused for illness, madness, and blindness, and those that come from the Governor, who make up the majority, are impossible to subject to any occupation, because of their indolence and bad habits." ²³ The better results reported by Maria Gorospe were undoubtedly the result of the severe discipline she imposed on her penal workforce.

Public corruption and the inherent problems of enforcement allowed a large measure of unauthorized penal exploitation. The royal government attempted to control the illegal trade by periodically inspecting the textile industry. An essential function of the visita was the discovery of unauthorized prisoners. The inspections, when they were made, were often very thorough; on the other hand, the process of inspection was often delegated to local magistrates and in many areas no inspections were carried out at all. The official enthusiasm to scrutinize and inspect the textile industry, which was only one among many employers of penal workers, waxed

²²AGN, Cárceles, vol. 15, Exp. 2, f. 21-22v.

²³AGN, Cárceles, vol. 15, Exp. 1, f. 7, 7v.

and waned according to the interests of the royal government in Mexico City. In the absence of pressure from Mexico City, the local governments were hardly effective watchdogs. They responded to local labor needs and local pressure. Inadequate public jails and a normal amount of greed were inducements that encouraged the magistrates to act the part of local labor brokers.

CHAPTER V

THE OBRAJES OF NEW SPAIN

The obraje was a large textile workshop, a pre-industrial factory, equipped with spinning wheels and looms, that produced cotton and woolen cloth. Despite the textile industry's notorious reputation as an employer of labor, the industry was a vital component of the colonial economy. Agriculture, mining, and a large popular market, which could not afford imported cloth, were dependent on its products. Indian cotton fields on the coastal lowlands and the vast sheep ranches of the Plateau, the Bajío, and the North furnished the raw cotton and wool that supplied the textile centers of Puebla, Tlaxcala, Mexico, Michoacán, and Querétaro. The textile trade supported a large infra-structure of teamsters, artisans, and merchants. Unpopular but necessary, the obraje was at the heart of an important intra-colonial trade.

Factual information about the textile industry, prior to the 18th century, is still fragmentary. Francisco de Peñafiel opened a textile workshop in the city of Puebla de los Angeles in 1539 to manufacture cloth "as in Segovia."¹ The warmth the durability of woolen garments and blankets opened a large and important market to the new European fabric. By 1579 Puebla alone had more than forty obrajes² manufacturing a variety of woolens, cottons and silks. In 1604, the Viceroy, Juan de Mendoza y Luna, Marqués de Montes-Claros, drew up a list of obrajes operating in New Spain:

Mexico: 45 mills, including 10 manufacturing hats; the largest employs 120 Indian workers whom his Majesty has just ordered freed.

Xochimilco: 4 mills, plus 2 at Tacuba, others at Coyoacan and Cuautitlan.

Texcoco: 8 mills established before 1600, with 355 Indian workers.

La Puebla: 35 mills with "many Indian workers" plus 6 at Cholula and others in the city of Carrion (Atlixco).

Tlaxcala: 13 mills, including 2 small ones (trapiches) making course cloth or saya, which the Viceroy has ordered closed.

¹Jan Bazant, "Evolución de la Industria Textil Poblana, 1544-1845," Historia Mexicana, XIII (abril-junio 1964)p. 477.

²"Licencia a los obrajeros de la ciudad de los Angeles," in Ordenanzas del trabajo, p. 150.

Tepeaca: 5 mills for course cloth, employing "50, 60, and 70 Indian workers each," plus others at Tecamachalco.

Celaya: 4 mills and many others at Querétaro, Guatzindeo, and Valladolid, whose alcaldes mayores have not yet submitted a report.

Although the actual numerical accuracy of the report cannot be tested, the report clearly delineated the geographical distribution of an extensive textile industry.³ The obrajes, distributed over so large an area, defied effective control and supervision from Mexico City.

An attempt was made in 1599 to simplify the problem of supervision by forcing the obrajes to relocate within four urban zones.⁴ Textile centers outside of the four chosen zones were threatened with the loss of an important industry. Concentration and relocation, therefore, failed, because the plan threatened vested interests and threatened to harm the important mining industry. Sack cloth or sayal was a necessary industrial commodity. Celaya's four obrajes, for example, outfitted more than 1200 mules with sack cloth to transport

³ The list or at least a digested version appears in Francoir Chevalier, La formation des grands domaines aux Mexique: terre et société aux XVI-XVII siècles (Paris: Institut D'Ethnologie, 1952)p. 136.

⁴ "Ordenanza sobre la fundación de los obrajes y en los partes que es permitido el tenerlos," in Ordenanzas del trabajo, p. 168-171.

over 30,000 fanegas of wheat "to the mines of San Luis, Sichu,
 Guanajuato, Talpujagua, and other mines"⁵ Large mine
 owners supplied their own needs from their own farms, sheep
 ranches, and obrajes. The Arizmande Gogarron family owned
 mines, sheep ranches, and farms around San Luis Potosí. In
 1636, they were granted a license to establish an obraje on
 one of their haciendas. The mining and farming enterprises
 of the Arizmande family employed more than 1000 workers and
 over 1800 mules.⁶

Fray Alonso Ponce, while traveling in the province
 of Tlaxcala, at the end of the 16th century, visited an obraje
 called El Molino, outside of Huamantla. El Molino was not a
 workshop, but a "very large hacienda." Almost all the
 operations of the obraje were performed in one large building,
 except fulling, which was done in a batán or fulling mill,
 outside but "very close" to the main building. The batán
 served also as a "mill for the sustenance of the people,"
 grinding the hacienda's supply of corn and wheat. The flocks
 of sheep, which grazed on hacienda land, supplied wool to
 the obraje "and for sale to other obrajes, and many cattle"

⁵"Para que los obrajes que hay en la villa de Celaya se
 queden allí hasta que otra cosa se provea," in Ordenanzas del
trabajo, p. 176-178.

⁶AGN, Civil, vol. 77, Exp. 4.

were kept "for the sustenance of workers, who also
 enjoy the services of a priest."⁷

Obrajes were located in towns, on haciendas, and on small tracts of land in the hills. A large number of manual tasks, essentially carding, spinning, and weaving, were integrated within one industrial complex. The obraje's one requirement was water and it was an absolute necessity. Fabrics were felted, beaten, and pressed until they formed a uniform texture, by the batán. The batán was composed of heavy wooden hammers, moved by an axle and driven by the power of falling water. A fulling mill had to be constructed on a river or a stream. Many obrajes were therefore located in the hills in order to take full advantage of a location next to a mountain stream.

As in the obraje of El Molino, the machinery of the batán could be used to grind corn and wheat. Melchor Díaz de Posadas, owner of an obraje and land in Coyoacán, a part of the Valley of Mexico, applied on September 14, 1647 for a license to construct a mill to grind corn and wheat on the Magdalena River. In his original petition, the obrajero posed

⁷Fray Alonso Ponce, Relación breve y verdadera de algunas cosas de las muchas que sucedieron al padre Fray Alonso Ponce en Nueva España, in Colección de documentos inéditos para la historia de España (Madrid: Imprenta de Miguel Ginesta, 1873)57, 147-148.

as a farmer and made no mention that the mill would also be a fulling mill for his obraje. The neighbors of Melchor Díaz de Posadas opposed the erection of the mill, because it threatened the fresh waters of the river. The obrajero,⁸ however, was granted the license.

The pollution of rivers and streams was a cause of constant friction between the obrajes and the towns and the farmers who depended on clean water. A representative of the Cortés family reported to the Audiencia of Mexico the existence of two unlicensed obrajes, situated in the town of Tacubaya, a part of the Cortés estate within the Valley of Mexico, in 1673. The inhabitants of Tacubaya informed an inspector that "the washing of the wool causes great harm to the water, which cannot be used for anything; the water cannot be used to irrigate the huertas, because the dyes that adulterate it kill the plants grease collects on the river banks and the water is always foul and of varied colors from the dye"⁹

The ownership of an obraje was not an occupation of esteem. In the 16th and 17th centuries, the obrajeros were

⁸AGN, Hospital de Jesús, Legajo 355, Exp. 75.

⁹AGN, Hospital de Jesús, Legajo 318, Exp. 43.

often merchants who had accumulated capital from commerce. Merchants understood the complicated operations of the textile trade and naturally put their capital to work in the manufacture of cloth.¹⁰ Successful 18th century textile manufacturers were richer, with more diversified business interests, than their 17th century predecessors. Joseph Antonio Negrette was a successful 18th century obrajero. He owned a large workshop called Peredo in Mexico City and a smaller workshop called San Joseph el Batancito in the ^{Town}~~town~~ of San Angel in Coyoacán. As Negrette prospered, he added land to his business holdings. In 1746 the obrajero purchased the hacienda of San Diego Acanguigundo in Actopan, Hidalgo. Negrette acquired social esteem from the ownership of land, but in addition he obtained a secure supply of wool¹¹ and an important cash crop in the form of pulque.

¹⁰In a recent article on the obrajes of Querétaro, John Super wrote: "In the early seventeenth century the occupation of mercader, loosely meaning merchant, was the most prevalent other occupation of owners." Querétaro's first obraje, opened in the late 16th century, was begun with money earned in commerce, the wool trade, and the slave trade. John C. Super, "Querétaro Obrajes: Industry and Society in Provincial Mexico, 1600-1810," Hispanic American Historical Review, (May 1976), p. 200-202.

¹¹AGN, Tierras, vol. 686, Exp. 8. Pulque, a clear liquid of the maguey cactus, was a popular beverage and easily fermented into a variety of alcoholic drinks. Pulque was sold everywhere and it was a very lucrative business.

The acquisition and maintenance of an adequate workforce was a constant problem of the textile industry. Despite the severe labor shortages of the late 16th century, compounded by the inability of the textile manufacturers to obtain Indian repartimiento labor, the obrajes survived. They were forced to depend upon a heterogeneous workforce of free and slave labor. Free workers probably always constituted a majority of the workforce, but their freedom was impaired by a pernicious system of debts. Destitute workers were lured into the obrajes with wage advances or entered in order to pay the royal tribute (a per capita tax paid by Indians and mulattoes) and other private loans. In addition, the obrajeros loaned them money and gave them merchandise on credit from the company store. Workers who accepted loans and merchandise were unable to leave the workshops until the loans were repaid.¹²

Pedro de la Cruz, a free mulatto, appeared before the corregidor of Coyoacán on October 7, 1692 in order to sign a labor contract with the obrajero Matías de la Vega. The obrajero agreed to pay the worker a year's salary, in advance, of 36 pesos, a sum the worker claimed he needed in order to obtain the release of his mother from

¹²The debts were not transferable, but the sale of an obraje usually resulted in the transfer of worker's workers's debts to the new owner.

jail. She owed a private debt, and she also had not paid the royal tribute.¹³ Another worker, an Indian named Antonio de la Cruz, was advanced 20 pesos on June 7, 1692 in order to pay the royal tribute and to feed and clothe his "destitute" family.¹⁴ Poor men and women accepted the salary advances and loans because they had no choice. Isidro Pascual signed a one year contract with the obrajero Juan Baptista Baruche on November 1, 1705 "to clothe his wife and himself"¹⁵ Destitute and indebted workers constantly renewed their debts in order to satisfy immediate needs. The employers encouraged indebtedness and retained workers by means of debts.

The establishment and maintenance of debts kept destitute workers imprisoned in the textile mills. Sixteenth century royal ordinances prohibited the extension of servitude because of new debts or penalties. The series of ordinances promulgated by Viceroy Martín Enríquez in 1569 and 1579 prohibited the extension of an Indian's servitude because of "money given to them for clothing"¹⁶ and the loss of wool.¹⁷

¹³AGN, Hospital de Jesús, Legajo 318, Exp. 40.

¹⁴Ibid.

¹⁵AGN, Hospital de Jesús, Legajo 319, Exp. 59.

¹⁶"Sobre los obrajes," in Ordenanzas del trabajo, p. 143.

¹⁷"Declaracion de las ordenanzas de los obrajes," in Ordenanzas del trabajo, p. 148.

Viceroy Luis de Velasco II issued a comprehensive ordinance regulating Indian labor in all the obrajes of New Spain in 1595. One provision limited loans to what a worker could¹⁸ earn in four months of work. Royal ordinances, however, were not consistently enforced and recognized abuses remained a part of the workshop economy until the end of the colonial period.

The encumbrance of workers by a system of debts was a characteristic of the workshop economy. Colonial bakeries, an industry associated with penal labor, utilized the same labor practices as those found in the textile industry. On the last day of Christmas in the year 1634 Viceroy Rodrigo Pacheco y Osorio was out walking on the calzada of Tacuba in Mexico City. At the Convent of San Cosme, he noticed an Indian hobbled by ankle chains. The curious viceroy discovered that the Indian was indentured to a Spanish baker. The matter was later investigated by the secretary of the Indian Court who learned that although the Indian was legally indentured to the baker he had "worked for him far longer than required by his obligation and whatever money he received was given

¹⁸"Ordenanzas para los obrajes," in Ordenanzas del trabajo, p. 160.

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maliciously to keep him in slavery"

Debts gradually and inevitably deprived workers of their freedom of movement. At that point, the workers, if they could, fled, and the employers, aided by the royal magistrates, pursued them. María de Avila, owner of the obraje of Apizaco in the province of Tlaxcala, sought the aid of the viceroy in 1616 to recover some of her runaway workers. Since the widow owed the government a considerable sum of money, her request was favorably considered. On March 14, 1616, the Marqués de Guadalcázar ordered that the men, who were believed to be working in Puebla, be arrested and returned to Apizaco to work off their debts. ²⁰ If captured, the runaway workers returned as prisoners and their debts were converted into actual chains.

Runaway workers were liable for all of the costs involved in their capture. The costs were considerable and when added to the debts they already owed represented a formidable barrier to their eventual freedom. In 1609, the Tlaxcalan obrajero Pedro Rodríguez de Venero died and while the will was in the courts the obraje was placed in the hands of an administrator. Some of the indentured Indians took

¹⁹ FHT, 7, 50-51.

²⁰ FHT, 6, 240-241.

advantage of the commotion and fled the workshop. The cost of their recovery, which appears in table 3, was carefully recorded by the administrator. If the pursuit had been successful the entire cost of returning the fugitives to the obraje would have been added to the workers's debts.

TABLE 3

COST OF RECOVERING RUNAWAY WORKERS IN 1607

The Judicial Judgment	7 pesos*	
The Judge's fee		7 reales
The Interpreter's fee	1 peso	4 reales
The Lawyer's fee	2 pesos	
The Notary's fee	1 peso	
The cost of the Judgment	12 pesos	3 reales
Information about the fugitives and the <u>alguacil</u> 's fee to get them	9 pesos	
Food and expenses for the trip to Tepeaca to find the fugitives	4 pesos	
Presentation of the Judgment to the magistrate and notary	2 pesos	4 reales
The cost of sending the <u>mayordomo</u> of the <u>obraje</u> to find the fugitives:		
food for the trip	1 peso	4 reales
two lasos		2 reales
the aid of an Indian		2 reales
A fee to a Notary to send the Judgment	4 pesos	4 reales
The cost of the Search	22 pesos	
Total Cost	34 pesos	3 reales

Source: MNA, Serie Tlaxcala, rollo 1.

* 1 peso = 8 reales

Workers's debts constituted a necessary liability, assumed by the obrajes, in order to retain free workers. The 170 workers employed in the obraje of Peredo, owned by Joseph Antonio Negrette, owed the obrajero, on July 1, 1746, 4,583 pesos. At the time of Negrette's death in 1751, the workshop was in a period of decline. The workforce had shrunk to 70 free workers who owed Negrette a modest 1,220 pesos. Many of the workers employed in 1746 still owed Negrette money in 1751. Their debts had diminished, as shown in table 4, but the rate of decline varied according to the individual.

TABLE 4
WORKERS'S DEBTS IN THE OBRAJE OF PEREDO, 1746-1751

Workers	1746	1751
Tomás Santos	45ps 6rs	28ps 5rs
Blas de Candelaria	23ps 2rs	12ps 3rs
Joseph Borjes	38ps 6rs	33ps 5rs
Miguel Santiago	29ps 2rs	5ps 3rs
Juan Estevan Chacon	58ps 1r	35ps 4rs
Pedro de Santiago	29ps 5rs	5ps 3rs
Pascual Antonio	45ps 5rs	29ps 3rs
Manuel de Santiago	59ps 5rs	42ps 1r
Miguel Francisco	47ps 7rs	7ps 5rs
Vicente Evaristo	13ps 1r	2ps 1r
Miguel Santiago Colorado	39ps 1r	24ps
Joseph Soto	25ps 4r	6ps 2rs
Joseph Santiago	28ps 2r	22ps 3rs
Juan de Dios Sombrerito	20ps	10ps 6rs

Source: AGN, Tierras, vol. 686, Exp. 8. Unfortunately, the Administrator who compiled the list of debtors in 1746 identified many of the debtors by their aliases. I have chosen only those names that appear on both lists and in a form that would indicate they represent the same man.

The treatment of indentured workers, at its worst, resembled the penal conditions imposed on the convicts. The obraje of Nuestra Señora de los Dolores, located in the town of Apizaco in the province of Tlaxcala, employed 25 indentured workers in 1712. The owner Diego Fernández Lamberto had no intention of letting his workers go. The book of accounts, containing their earnings and their debts, had not been examined in three years. An Indian worker named Andrés Pérez had originally borrowed 25 pesos, but after 18 years he still owed Lamberto 30 pesos. Miguel García, a mestizo employee who had worked 6 years in the obraje, swore to an inspector that "many of the indentured workers have been here for 10 years, others for 8 years"

Lamberto's method of labor retention was simple and direct. The indentured workers were kept inside the workshop with the prisoners and slaves. They received half a real each day for food, which they all agreed was inadequate, and they received nothing on holidays and on days when they were sick. The workers, trapped within the obraje, constantly borrowed additional money for food and made other purchases at the company store. Lamberto charged them exorbitant prices for clothing. A pair of pants, made of textile remnants, cost 13 reales and a poorly made shirt cost 12 reales. Juan Carrion, a former prisoner, was unable to leave the workshop

because of debts. Carrion testified that he had been in the obraje "11 years constantly working and imprisoned, and each time that the owner examined the books he still owed him money, and it is the same with the other 25 indentured workers"²¹

An Indian named Andrés Nicolás, who supported two small children, was employed as a carder in the workshop of Juan de Posadas, located in Coyoacán, in 1706. During his 11 months of employment, he received 30 pesos worth of merchandise from the company store. Posadas paid him 2½ pesos a month, and Andrés Nicolás claimed he owed Posadas only 4 pesos more when the obrajero "sold me on his own authority, and he wanted to charge me the 4 pesos that he paid to the escort"²² Indentured workers were not chattel and Andrés Nicolás's appeal to the Indian Court was probably successful. It cannot be assumed, however, that the existence of a legal action constituted vigorous government enforcement of colonial laws. The obraje could not have existed without the tacit support of the colonial government. When a grievance was redressed, the obrajero rarely paid more than a token

²¹ MNA, Serie Tlaxcala, rollo 5: a Visita to the obraje of Diego Fernández Lamberto, dated December 10, 1712.

²² AGN, Hospital de Jesús, Legajo 319, Exp. 66.

penalty and in many cases none at all.

The Marqués de Croix promulgated in 1767 a comprehensive ordinance on obraje labor. The tone and substance of Croix's ordinance resembled the benevolent labor ordinances of the Spanish Hapsburgs. Penal labor was prohibited; debts were limited to what a worker earned in 4 months of work and advances were restricted to the same period, but at a rate of 2/3 of a worker's salary, allowing him to receive the remaining third as a weekly wage. All obrajes were ordered to keep their doors opened "in order that Indian workers not be coerced or imprisoned" ²³ The renewal of royal opposition to the obrajes coincided with the Bourbon revival ²⁴ of Spain's textile industry and foreign trade. Spain's renascent textile industry would have benefited from a reduction of colonial manufactures.

Charles III, a vigorous and industrious monarch, became king of Spain in 1759. On February 19, 1761, the king addressed a royal cédula to the Viceroy of New Spain, the Marqués de Cruillas (1760-1766), denouncing the inhumane treatment of Indian workers in the textile workshops, sugar

²³ AGN, Bandos, vol. 6, Exp. 68.

²⁴ See Richard Herr, The Eighteenth Century Revolution in Spain (Princeton University Press, 1958).

mills, and haciendas of the Viceroyalty. The king's anger was specifically directed against Balthasar de Sauto, owner of an obraje in the town of San Miguel El Grande in the region of Guanajuato. Charles III claimed that he was shocked and "surprised" at the "scandalous crimes" committed in the textile workshops of New Spain. It is evident from the tone of the royal cédula that the seed of the Ordinance of 1767 was planted in 1761.

Balthasar de Sauto's fate should have been sealed in 1761 when King Charles III ordered the Viceroy of New Spain "to close Sauto's obraje, in case it is not already
 25
 closed" In fact, Sauto was still in business 7 years later, although he was still under investigation. The corregidor of Querétaro, on March 16, 1768, was able to verify few of the allegations against Sauto except that a number of crimes, involving the workers, had occurred. Witnesses had testified, on the subject of debts, that the mayordomos of the obraje forcibly returned to the workshop, on their own authority, runaway debtors. Sauto did not deny the charge, protesting instead "but this does not only occur in my obraje, but in all the obrajes of this town and of those of Querétaro,

²⁵El Obraje ed. Luis Chávez Orozco, p. 53-54.

because it is a universal and ancient practice in all the
 26
obrajes of this kingdom."

The collection of royal ordinances, regulating labor in the textile industry, offer a static perspective of the textile industry's evolution. Labor conditions varied according to regions, urban and rural locations, and even from workshop to workshop. There was a gradual evolution of the workforce, the composition adapting to the available labor supply. In the 17th century, for example, black, mulatto, and Philippine slaves were added to the workforce. Free labor also evolved away from the confinement of the early colonial period. There was no compulsory confinement of free workers in the 18th century. Although Balthasar de Sauto was accused of confining his workers, he showed the investigators that the free workers and trusted slaves lived outside the workshop in an area of small shacks. The only workers confined inside the obraje were the prisoners, some slaves, and the debtors who could not be trusted because they had previously tried
 27
 to run away.

²⁶ AGN, Tierras, vol. 932, Exp. 1, f. 260v. Sauto's troubles began after an inspection of the obraje by a member of the Audiencia, Diego Fernández de la Madrid, prior to 1761. The magistrate's report was sent to the king.

²⁷ AGN, Tierras, vol. 932, Exp. 1, f. 260.

The development of New Spain's textile industry was dominated by the obraje. Smaller workshops called obradores or trapiches, consisting of fewer looms and a much smaller workforce, co-existed with the larger obrajes. The small workshops of the city of Querétaro consisted in 1793 of "a father of a family with many children; a husband and his wife and other associated relatives; and finally a group of poor and hungry individuals one weaves, others spin and card, and all effectively contribute to the final product, which is sold, and although the profit, compared to the cost, is small it furnishes a humble and frugal existence."²⁸

Small scale production played an important role in the manufacture of cloth at the end of the 18th century. The city of Tlaxcala, an early wool center, had shifted in the 18th century to the production of cotton cloth. The manufacture of textile cloth was no longer concentrated in obrajes, but in numerous workshops and homes throughout the province. A survey of Tlaxcala's textile industry in 1793, as shown in table 5, revealed that there were no obrajes in the province at the end of the 18th century. The decentralization of production resulted from the development of an extensive

²⁸ AGN, Alcabala, vol. 37, Report of the Real Aduana de Querétaro, April 13, 1793.

TABLE 5

THE TEXTILE INDUSTRY OF THE PROVINCE OF TLAXCALA, 1793

Capital and Towns	Obrajes	Independent Looms	-----Ownership-----			--Employment--	
			Spaniards	Indians	Castas	Men	Women
Tlaxcala	0	354	192	162	0	708	1,416
Santa Ana	0	275	142	120	13	550	1,100
San Pablo	0	115	73	31	11	224	448
Nativitas	0	125	122	3	0	250	500
San Felipe	0	30	30	0	0	60	120
Huamantla	0	42	42	0	0	84	168
Santa Inez	0	73	61	11	1	146	292
San Salvador	0	13	13	0	0	26	52
Apizaco	0	39	37	0	2	78	156
Tlaxco	0	74	74	0	0	158	316
Totals	0	1,140*	786	327	27	2,284	4,568

Source: AGN, Alcabala, vol. 37, Report of the Real Aduana de Tlaxcala, November 24, 1793.

* Of the 1,140 working looms 950 wove cotton and 190 wool.

cottage industry of small producers. Merchants advanced to poor Indian women and their families, living in villages around the city of Tlaxcala, cotton and other merchandise. The cotton was spun into yarn and sold to Tlaxcala's obradores, which employed only a small workforce of five or six men each, to weave and finish the cloth. The merchants were at the heart of the cotton trade, because they supplied the credit and the organization that maintained the trade.

The system of mercantile credit that existed in Tlaxcala at the end of the 18th century resembled the putting-out system which operated successfully in Great Britain and in Europe in the 17th and 18th centuries. The merchant, in the putting-out system, was not a manufacturer, but a capitalist who bought and sold the work of others. He supplied the raw materials and received in return the manufactured product. The merchant's overhead was small, and he was not responsible for the welfare of the workmen from whom he bought yarn and cloth. A successful merchant was able to organize a network of cottage artisans who borrowed from him the means to work and to live. Inevitably, the merchant's control of capital
29
and distribution led to the control of manufacturing.

²⁹ Paul Mantoux, The Industrial Revolution in the Eighteenth Century, trans. Marjorie Vernon (New York: Harper Torchbooks, 1962)p. 62-68. Although an extensive literature on the putting-out or domestic system exists, Mantoux's work remains a classic description.

The cotton weavers of Tlaxcala complained in 1783 that they lacked cotton yarn, because the merchants, who owned stores inside the Indian villages, bought back the yarn for sale to Puebla and other textile centers outside the province of Tlaxcala.³⁰

There existed in New Spain, at the end of the colonial period, an extensive cottage industry. The putting-out system was utilized by some of the obrajes of Querétaro. The system was essentially the same as in Tlaxcala, except that in Querétaro the merchants did not perform the role of middlemen. The obrajeros distributed wool, on credit, to Indians living in villages outside the city. The spun yarn was later collected³¹ and returned to the obrajes where it was woven into cloth. Merchants, however, may have played a role in the financing of Querétaro's trapiches; short on capital, the small workshops bought extensively on credit and may have paid their merchant creditors in textile cloth. One source calculated that Querétaro in 1793 had 16 operating obrajes (9 more were closed) with 181 working looms. The same source estimated that small,

³⁰ MNA, Serie Tlaxcala, rollo 29, no. 28.

³¹ John C. Super, "Querétaro Obrajes: Industry and Society in Provincial Mexico, 1600-1810," HAHR, (May 1976)p. 208.

independent, Indian producers operated 255 looms and the
 32
castas an additional 333 looms.

The continuity and apparent immunity of the obraje to fundamental changes in technology and labor has been an impediment to it's study. The obraje was not immune to change, and even in the area of labor, an area marked by the paternal and absolute domination of the obrajero, the relationship between capital and labor was not immutable. Julián Adalid, owner of an obraje in Tacuba, was unable to control his workers. Adalid complained to the Assistant
 33
 Intendant of Tacuba in 1795 of anarchy and disorder. The workers failed to obey authority; they drank, fought, gambled, and behaved as if they had no fear of the dreaded obrajero. The debtors escaped, "breaking the iron bars that guarded the windows each one taking whatever he could carry ..."

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 AGN, Alcabala, vol. 37, Report of the Real Aduana de Querétaro, April 13, 1793. Alexander von Humboldt stated confidently that in 1793 Querétaro's obrajes had 215 working looms and employed 1,500 workers: Alejandro de Humboldt, Ensayo politico sobre El reino de la Nueva España, p. 452. John C. Super calculated that Querétaro had in 1793 17 operating obrajes with 227 working looms: John C. Super, "Querétaro Obrajes: Industry and Society in Provincial Mexico, 1600-1810," HAHR, p, 212.

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 In 1786 the administrative divisions of gobiernos, corregimientos and alcaldias mayores were replaced by 12 intendencias. The intendencia was divided into districts and each district had a subdelgado, responsible to the Intendente, who was essentially the old alcalde mayor.

No help was received from the local government, and Julián Adalid insisted that the workers lied in front of the magistrates "in order to hide their crimes and finally to get away without paying what they owe in this ³⁴
obraje."

The conditions described by Julián Adalid contrasted sharply with the traditional conception of the obraje. Adalid was not an insignificant obrajero. He was a respectable Mexico City businessman and a relative of Manuel Saénz de Santa María, owner of the obrajes of Posadas and Misquaque in Coyoacán. The families of Saénz de Santa María, Paulin, and Adalid were closely tied by marriage and business, and they represented important manufacturing interests in the Valley of Mexico. The obraje in Tacuba was therefore in serious trouble, and the tone of outrage that permeated Adalid's petition made it apparent that he laid the blame for the disorders on the indulgent attitude of the royal magistrates. At one point, in the petition, Adalid berated the royal magistrates: "They (the workers) commit rapes, adulteries, incest and violence wherever they go; much of the blame belongs to the ³⁵
Justices who bend over backwards not to punish them"

³⁴AGN, Civil, vol. 1628, Exp. 9, f. 288-289v.

³⁵Ibid.

The situation in Tacuba was not unique. The workshop owners of the city of Puebla petitioned the viceroy in 1800 to help them restore discipline within their obrajes. A majority of the artisans and workers extended their Sundays of no work to Monday "and many of them even extend them to Tuesday and Wednesday in order to pursue the vice of drinking" The workers also stole wool, which they sold "in the secondhand market, on the street, and to small workshops" At the heart of the matter was the inability of the obrajeros to hold or punish their free workers. Workers changed jobs even before they had paid back their previous debts, a situation that undermined the basic system of wage advances. To remedy the situation, the manufacturers asked the viceroy to prohibit workers from changing jobs while they still owed money. They also wanted permission to chain debtors who they suspected would try to escape and extract
36
from other obrajes workers who owed them money.

It is difficult to imagine that the once terrible obrajeros allowed their workers to loaf and cheat them. Nevertheless, conditions at the end of the 18th century were particularly favorable to the workers. The European wars of

³⁶ AGN, Industria, vol. 8, f. 264-269.

the French Revolution had limited trade with Spain and encouraged the colonial manufacture of textiles. The obrajes, however, were unable to satisfy their labor demands in their traditional fashion. The Bourbon administrative reforms of 1786 created an efficient and obedient class of provincial bureaucrats and magistrates. Evidently, the Bourbon administrators were more successful than their predecessors in protecting the rights of free workers. The proliferation of small workshops also drained workers from the obrajes. The trapiches effectively competed with the obrajes for labor and the popular textile market. Small family enterprises employed family and friends and did not have to depend on coercion or indebted labor. Finally, the funneling of penal labor into the royal presidios of New Spain and the islands of the Caribbean Sea further limited the labor supply. The result was an unprecedented freedom of labor that was unique in the textile industry.

The textile industry of New Spain gradually evolved away from an industry dependent on forced and chattel labor to a free labor market. Throughout most of colonial history the obrajes employed an amalgam of free and forced labor. The balance varied in individual workshops, but on the whole it conformed to the available labor supply. The dearth of historical information, primarily the lack of obraje

records and account books, comparable to those kept on the haciendas, has imposed limitations on the study of free labor. More information exists on slaves and on prisoners: the former because they were property and the latter because the colonial judiciary acted as a labor broker. Although the prisoners represented only a small percentage of the total workforce, they were subjected to the same discipline, the same workload, and the same system of debts as other free workers.

CHAPTER VI

SLAVES AND PRISONERS IN THE OBRAJES OF COYOACÁN

Southwest of Mexico City, from the shores of Lake Texcoco to the valley rim, lay the region of Coyoacán. The jurisdiction of Coyoacán extended from Chapultepec, the boundary of Mexico City, to the towns of Tacubaya, Mixcoac, San Angel, Coyoacán, and San Agustín de las Cuevas. Today, they are integral parts of Mexico City but still connected by an ancient road that has been given the name of the Avenue of the Revolution. The geographical proximity of Coyoacán to Mexico City, the capital of the viceregal government and the largest economic market place in the valley, added to Coyoacán's strategic importance. In the 17th century a thriving textile industry was developed and Coyoacán became an important textile center.

Coyoacán's development as a textile center was aided by its inclusion in the estate of the Marqués del Valle, the

title granted to Hernando Cortés and his heirs by Emperor Charles V. This great feudatory family showed a remarkable ability to resist the efforts of the viceregal government to deprive it of political and judicial power within their domain. The family jeopardized its position in 1570 when Martín Cortés was implicated in an abortive conspiracy. In retaliation the crown suspended the Marqués's political and judicial powers, a condition his enemies hoped would be permanent. The Cortés family, however, regained royal favor, and in 1595 the crown restored to the Marqués del Valle full authority over his lands.

Coyoacán's unique status, geographical location, and ample supply of water attracted textile manufacturers to this region. Their independence was protected by the officials of the Cortés estate, who considered the attempts of the viceregal government to inspect Coyoacán's obrajes a usurpation of the rights of the Marqués del Valle. After the restoration of the Marqués's political and judicial authority, the Royal Audiencia was forced to recognize the right of the estate's administrator and governor to appoint whatever judges were needed to inspect the obrajes and¹ enforce royal regulations.

¹Richard E. Greenleaf, "Viceregal Power and the Obrajes of the Cortés Estate," HAHR, (August 1968)p. 369-375.

The Marqués de Cerralvo (1624-1635) was probably more successful than any of his predecessors in removing Indians from the obrajes of New Spain. King Philip IV urged the viceroy in 1627 to renew the royal campaign against the imprisonment of the Indians. Previous ordinances had failed to open the textile workshops, but the king was determined to press the issue until the obrajes released their Indian workers. The royal cédula once more prohibited the sale of Indian penal labor "because if their crime is a public one, then satisfaction and punishment must also be public rather than the sole benefit of the obraje owner who manages to come to terms with the magistrates"²

More effective than royal indignation was the removal of the viceroy's authority to issue licenses to establish new textile mills in 1628 and the transfer of the power to the Council of the Indies.³ Finally, in 1633 the Marqués de Cerralvo issued a comprehensive law that prohibited the employment of Indian men and women in the obrajes. The viceroy threatened the obrajeros with heavy fines, confiscation of property, exile, and even death for those who repeatedly

²CFS, 2, 297.

³Recopilación de leyes de los reinos de las indias, Libro IV, Título XXVI, Ley 1.

4

flouted the ordinance. The laws were enforced in Coyoacán, because the obrajeros complained that the royal corregidor raided the textile workshops at night in order to find Indians in the workshops. ⁵ Obrajeros who wished to obtain licenses to open new workshops in Coyoacán stressed in their petitions that they owned a sufficient number of slaves to operate the workshops without Indian labor.

Coyoacán's obrajeros invested large sums of money to acquire black, mulatto, and Asiatic slaves. ⁶ The employment of slave labor was stressed in applications for licenses by new owners. Jacinto de Silva moved his obraje from Tlaxcala to a "house and arable lands in Coyoacán" in 1640. He claimed, in his petition, to employ only slaves in his workshop, a favorable consideration from the government's point of view. ⁷ The Posadas obraje was established in 1636 by Julian Díaz de Posadas in a house with adjacent land on the Magdalena River. Posadas also made a point of informing the government that

⁴"Nuevas ordenanzas" in Ordenanzas del trabajo, p. 196.

⁵ On June 19, 1632, Pedro de Sierra, owner of an obraje near San Jacinto in Coyoacán, claimed the corregidor raided the workshop one night and charged him with confining Indians in the obraje. Sierra employed 7 Indians, whom he paid a weekly wage, but in addition 4 of his slaves were married to Indian women who slept in the workshop with their husbands. FHT, 6, 579.

⁶ The Asiatic slaves were called chinos and this term was applied to all people from the Philippine Islands.

⁸ FHT, 7, 390.

he possessed a workforce of slaves.⁸ Tomás de Contreras⁹ employed 101 slaves in his textile mill in 1660 and Antonio¹⁰ de Ansaldo employed 92 slaves. At his death in 1693,¹¹ Ansaldo left his wife and son an obraje, a batán, arable land, and about 40 black and mulatto slaves.

The heavy concentration of slaves in Coyoacán left its mark on the region's population. The slaves married and formed sexual unions with free Indian women. The offspring were mixed and formed the basis of a population of castas that remained in Coyoacán. The obrajero Pedro de Sierra, for example, had four male slaves, 3 mulattos and 1 chino,¹² who were married to Indian women in 1632. Ventura Rodríguez was a chino slave who belonged to the obrajero Melchor Díaz de Posadas. He married Ana María de la Concepción, whom he met working in the obraje spinning wool. Their son Rodríguez¹³ was called a mestizo. The racial composition of the married

⁸ FHT, 8, 29-41.

⁹ Boletín del Archivo General de la Nación XI (enero-marzo 1940)p. 81.

¹⁰ Ibid, p. 84.

¹¹ AGN, civil, vol. 355, Exp. 1.

¹² See footnote no. 5.

¹³ Boletín del Archivo General de la Nación, XI, 51.

and unmarried couples was usually mixed, which suggests that within the obrajes, as in other occupations that employed the lower classes, the racial misegenation of the population,¹⁴ known as the mestizaje, prevailed.

The slaves and their descendants remained in Coyoacán and were employed in the obrajes throughout the 18th century. The term pardo was used in the 18th century to describe a person of partial African ancestry, usually mulatto but not black. They were considered excellent soldiers and were organized by the colonial government into military units. In 1792 a census was conducted to locate pardos and Coyoacán was one of the regions surveyed. In the obraje called Posadas, 94 male workers, 10 apprentices, and their families formed an aggregate of 196 pardo men, women, and children. In the obraje of Misquaque, the census taker counted 101 male workers, 12 apprentices, and an aggregate of 178 pardo men, women,¹⁵ and children. These figures represent a minimum number of castas, because they do not include mestizos and possibly others not classified as pardos.

¹⁴ On the subject of the mestizaje in colonial history see Magnus Mörner, Race Mixture in the History of Latin America (Boston: Little Brown, 1967).

¹⁵ AGN, Padrón, vol. 6, f. 120v-131v.

The acquisition of slaves represented a heavy initial investment of capital. Gabriel Caballero, a Puebla textile manufacturer, owned 21 slaves in 1636. The value of his slaves varied according to age and experience. An unskilled child was worth only 150 pesos, but a skilled woman spinner¹⁶ was worth as much as 500 pesos. The danger of over investing in slaves became apparent to Julián Díaz de Posadas in 1641, when he was unable to complete the payment of 500 pesos that he owed the government for his license to operate the obraje. The death of more than 24 slaves, probably from an illness in 1641, turned Posadas's investment into a serious and¹⁷ costly liability.

The wise obrajero did not rely exclusively on one type of labor. Chattel slaves, free workers, and prisoners formed the three categories of workers employed in the workshops. The slaves formed a core of trained workers, but few obrajeros relied only on slaves. Free workers were less reliable than slaves, often working when they pleased, but they did not require a large initial investment. The prisoners formed an intermediate group: some were criminals sold by the Royal Sala de Crimen or purchased at a local auction

¹⁶ MNA, Archivo Judicial de Puebla, rollo 17.

¹⁷ FHT, 8, p. 35.

from the corregidor of Coyoacán; others were detained in the obrajes, instead of the public jails, until a decision was made in their case, and a third group was imprisoned in order to pay back private debts owed either to the obrajero or to a third party.

A poor, vagrant, and unemployed class of men, usually identified as vagabonds, were often responsible for robbing and assaulting pedestrians on the road. When they were caught, the muggers were sent to the obrajes. The obrajero Pedro de Sierra was given custody of 3 Indians in 1644 who were accused of robbery and assault. They robbed, stripped, and beat an Indian returning at night to his home in Xochimilco. The Indian Court, a division of the Audiencia with jurisdiction in Indian affairs, ordered the bandits auctioned for a term of 2 years of hard labor. The court awarded the victim 15 pesos and the remainder was divided between court costs and the royal treasury.¹⁸ If these men were sold at the usual rate of 2 to 3 pesos a month, the government collected from 144 pesos to a possible 216 pesos.

¹⁸AGN, Criminales, vol. 132, Exp. 27. It is very possible that the obrajero Pedro de Sierra bought the Indians' labor, because they were already detained in his workshop. The documents of the Indian Court, however, do not explain what happened to the men after their conviction.

Many crimes were punished only by fines, which invariably in the case of the lower classes were paid by forced labor. Rape, for example, was usually punished only by a fine. An Indian named Juan Salvador kidnapped and raped an Indian woman from Mexico City in 1650. The culprit was arrested and detained in the obraje of Cristóbal de Sierra which was located in Coyoacán. On September 2, 1650, the Sala de Crimen found Juan Salvador guilty of rape and ordered him to pay the girl's mother 24 pesos, a dowry for her daughter, and 6 pesos in court costs. The fines were paid by Cristóbal de Sierra who kept the prisoner as a penal worker. According to the labor contract, the prisoner was to be kept in chains, fed, and paid at a wage of 3 pesos a¹⁹ month. At the end of ten months the prisoner should have been released, and the court warned the obrajero not to lend him any additional money to prolong his servitude.

Penal workers were not all free men and women. Some were slaves who had committed crimes or had attempted to escape from their owners. Lorenzo de la Concepción was a mulatto slave who was convicted of murder while he worked in the mines of Sultepeque. After he was imprisoned 6 years in the public

¹⁹AGN, Criminales, vol. 216, f. 261-280. Pedro de Sierra and Cristóbal de Sierra both owned obrajes in Coyoacán around 1650. It is possible that the two men were related.

jail, he was sold to Melchor Díaz de Posadas to work 8 years in his obraje. When Posadas's obraje was inspected in 1660,²⁰ the prisoner still had 4 more years to serve. A number of runaway slaves were also in Posadas's obraje. Nicolás Acevado, a mulatto slave, belonged to an obrajero from Puebla, who²¹ sent him to Posadas's workshop after he tried to escape. Antonio de la Cruz had similar luck; he was caught by one of Posadas's guards while he loitered by the shacks or jacales that housed the obraje's slaves. When the vicar of Guadalupe, who owned the slave, was informed of his slave's whereabouts,²² he ordered him to remain in the obraje.

Andrés Sánchez de Ocampo, a magistrate of the Royal Audiencia of Mexico, arrived in the town of Coyoacán on November 12, 1660 to inspect six of the region's obrajes. The inspection was not authorized by the Marqués del Valle and it renewed the jurisdictional struggle between the Royal Audiencia and the Marquesado. An amicable solution was found in 1685 when Viceroy Antonio Cerda y Aragón, Conde de Paredes, appointed Juan de Arteaga, a magistrate of the Audiencia, to

²⁰ Boletín del Archivo General de la Nación, XI, 44.

²¹ Ibid., p. 45.

²² Ibid., p. 48.

inspect the obrajes of Coyoacán, Tacubaya, and Cuernavaca. The compromise was based on Arteaga's other position of private magistrate of civil and criminal matters within the Marqués's estate. The choice of judges, who simultaneously served both the crown and the Marqués del Valle, obviated any jurisdictional conflict, but ultimately undermined the inspections which by the year 1700 were only perfunctory legal rituals.

Thorough and detailed inspections of some of Coyoacán's obrajes exist for the years 1660, 1685, 1689, and 1693; excellent examples from the years 1687, 1691, and after 1700 suggest that inspections were frequent, but that many were lost or removed from the archival collections. The visiting magistrates collected information on prisoners, indentured workers, workers's pay, working conditions, the number of looms in operation, and the quality of the textile cloth. Their primary concern was to discover illegally imprisoned free workers. The prisoners were therefore always separated, counted, and the legal documents that authorized their imprisonment examined. When the procedure was followed and carefully

²³ Richard E. Greenleaf, "Viceregal Power and the Obrajes of the Cortés Estate," HAHR, ...p. 376.

recorded by a notary, the numerical accuracy of the reports
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 was therefore excellent.

The criminal population confined within the obrajes of Coyoacán was a small percentage of the total workforce. The number of convicts varied from workshop to workshop, but an accurate census of prisoners was not consistently compiled. Two groups of visitas, those of 1660 and 1685, contained a census of the number of criminals imprisoned in each obraje inspected. They represent an excellent sample, which is reproduced in table 6, of the distribution of criminals within Coyoacán's textile mills. The visitas of 1685, Arteaga's first tour of inspection, were thorough but only a few exist. A comparison of the extant inspections of 1660 and 1685 show that men convicts outnumbered women convicts; Indians, mulattos and mestizos formed the basic penal population of the workshops. None of the workshops, which were inspected, were dependent on penal labor.

²⁴ The visitas only contain statistics on the workers found working within the workshops on the day of the inspection. Workers and slaves who may have been outside of the obraje were not counted and no attempt was made to determine the total workforce. In many instances, the magistrates neglected to count the workers; they counted the prisoners, conducted interviews, and listened to complaints. When the inspection was purely superficial, the inspector noted the general satisfaction of the prisoners and workers and concluded the report with an inspection of the textile cloth.

TABLE 6

PENAL WORKERS EMPLOYED IN COYOACÁN'S OBRAJES, IN 1660 AND IN 1685*

Year	Obrajeros	Male	Female	Indians	Mestizos	Blacks	Mulattos	Asians	Unknown
1660	Melchor Díaz de Posadas	14	1	8	1	1	5	0	0
1660	Juan Gallardo	0	0	0	0	0	0	0	0
1660	Tomás de Contreras	9	2	8	0	0	1	1	1
1660	Antonio de Ansaldo	12	0	7	0	0	2	0	3
1660	Pedro de Sierra	9	0	6	0	0	2	1	0
1660	Juan de Olivares	4	0	3	0	0	1	0	0
1685	Diego de Contreras	20	0	13	1	0	6	0	0
1685	Joseph de Sierra	11	0	9	0	0	1	0	1
1685	Sancho de Posadas y Agurto	27	0	11	10	0	6	0	0

Source: Boletín del Archivo General de la Nación, vol. XI (México, 1940).
 AGN, Hospital de Jesús, Legajo 318, Exp. 41, 42, 45.

* Prisoners purchased from the Sala de Crimen or from a local court.

The workforce of free workers, slaves, and prisoners varied from workshop to workshop. Tomás de Contreras and Antonio de Ansaldo relied almost entirely on slave labor. The magistrate Andrés Sánchez de Ocampo found so many slaves in their workshops that he took the unusual step of recording their number. When the visitador reached the obraje of Pedro de Sierra, no slaves were found within the workshop. Nevertheless, many of the free workers were part of a family unit that included a slave. Of the 27 free workers employed in Pedro de Sierra's obraje in 1660, 7 were free women who were married to slaves and 4 were children of a marriage between a slave and a free woman.

TABLE 7

THE WORKFORCE OF 3 OBRAJES IN 1660

<u>Obrajeros</u>	<u>Slaves</u>	<u>Prisoners</u>	<u>Free Labor</u>
Tomás de Contreras	101	11	10
Antonio de Ansaldo	92	12	7
Pedro de Sierra	?	9	27

Source: Boletín del Archivo General de la Nación, vol. XI, pp. 77-82, 82-86, 86-89.

Coyoacán's obrajes helped poor prisoners and their families survive the ordeals of a primitive penal system. Three former tax collectors, who had embezzled tribute money, were working in the obraje of Matías de la Vega in 1689. A year before, they were removed from the public jail and put into the workshop because "they and their families were
²⁵starving" Some of the prisoners brought their wives with them to the workshops. A mulatto prisoner named Jusepe de Leon worked in Tomás de Contreras's textile mill in 1660. He owed the obrajero 194 pesos, a large sum that only criminals owed, and he received a wage of 3 pesos a month. His Indian wife, Magdalena, was also employed in the same workshop, but
²⁶she entered and left the obraje without interference.

The public jails were old, dilapidated structures that were usually in need of serious repairs. When the jails became unusable, the prisoners were removed and detained in local obrajes. The alguacil mayor, the chief constable, of San Agustín de las Cuevas detained 3 Indians and a mestizo in the workshop of Francisco Ansaldo y Peralta in 1690. The

²⁵AGN, Hospital de Jesús, Legajo 318, Exp. 34.

²⁶Boletín del Archivo General de la Nación, vol. XI, p. 79-80.

obrajero was ordered to accept them, because the prisoners²⁷ were "evil people and the public jail is not secure"

Coyoacán's public jail was also not considered a safe place of detention. The corregidor placed prisoners in the obraje of Matías de la Vega, located in the town of Coyoacán, in 1691, because "the public jail of this town is falling

²⁸down" The jail was still "falling down" in February of 1693, when the corregidor detained an Indian, accused of stealing donkeys, in the workshop of Francisco de Ansaldo y²⁹ Peralta.

The consumption and sale of cheap alcohol was prohibited by colonial law. Intoxication was considered a cause of crime, vice, and indolence. The law, which was unpopular and very difficult to enforce, represented a conscious social policy to inhibit the consumption of alcohol by the³⁰ lower classes. Homes were used as illegal taverns, and Indian and mestiza women sold tepeche, a form of fermented

²⁷AGN, Hospital de Jesús, Leg. 318, Exp. 44.

²⁸Ibid, Leg. 318, Exp. 40.

²⁹Ibid, Leg. 318, Exp. 30.

³⁰AGN, Bandos, vol. 2, Exp. 3, f. 13-14v. The sale of illegal alcohol was punished by lashes, fines, and sentences to the galleys.

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pulque, in the streets. Those arrested were usually put into the obrajes. Juan Melchor, an Indian from the town of San Pedro Quasimalpas, was arrested, because a jug of tepeche was found in his home. The prisoner was turned over to the corregidor of Coyoacán, who ordered that he be detained in Matías de la Vega's obraje on June 21, 1691. Juan Melchor was convicted, whipped 100 times in the town square, and sentenced to serve 2 years of hard labor in an obraje. Matías de la Vega was able to keep the prisoner after he paid the court 60 pesos.

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The tepecheras, Indian women who sold tepeche, were a common urban sight in Mexico City and throughout the Valley of Mexico. The illegal occupation saved many poor women from destitution. Those who were caught were put into women's prisons or into the obrajes to work. Tepecheras, arrested within Mexico City, were usually placed in the Recogimiento of Santa María Magdalena, a royal workhouse established by the Sala de Crimen in 1689, or into the Recogimiento of La Misericordia, an ecclesiastical workhouse supported by the

³¹ AGN, Criminales, vol. 260, Exp. 21.

³² AGN, Hospital de Jesús, Legajo 318, Exp. 40. Matías de la Vega acquired, at the same time, another Indian, Joseph de Santiago, who was also charged with the possession of tepeche in his home in the town of San Pablo. The two prisoners cost the obrajero 120 pesos.

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Archbishop of Mexico. Other women were sold to the obrajes. Petrona Nila, an Indian tepechera from the town of Santa Fé, was sentenced, as a result of a viceregal edict, to serve 2 years in an obraje in 1693. The corregidor of Coyoacán took the prisoner to Nicolás de Castro, the owner of a small textile workshop, who paid the court 1 peso 4 reales a month
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for the prisoner.

Magistrates, outside of Coyoacán, advertised the availability of prisoners held in their jails. The alcalde mayor of the town of Xochimilco was unable to sell the labor of a mulatto horse thief named Juan de Trujillo in 1685. Isidro López, administrator of a textile mill owned by Sancho de Posadas y Agurto, was interested in the prisoner and sent an agent, a Spaniard named Joseph Santos, to Xochimilco. Santos was able to obtain Trujillo, sentenced to serve only 6 months of penal servitude, with a relatively low bid of 1 peso 6 reales a month. It was also discovered that Trujillo, as a mulatto, owed royal tribute for the year 1684, and this too was now conveniently added to his debt. López's agent paid the alcalde mayor 12 pesos, and Trujillo was assigned

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See Josefina Muriel, Los Recogimientos de Mujeres, (Mexico: Universidad Nacional Autonoma de Mexico, 1974).

34

AGN, Hospital de Jesús, Legajo 318, Exp. 39.

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to work 7 months to repay the debt.

In all of the visitas collected for Coyoacán only one contained any record of a Spaniard serving in an obraje. On November 2, 1689, the magistrate and visitador Juan de Arteaga recorded the presence of Miguel Ramírez in the workshop of Francisco de Ansaldo y Peralta. The Spaniard was convicted of murder and sentenced to banishment in the Philippine Islands. The Sala de Crimen considered him a very dangerous individual and ordered the obrajero to put 2 sets of chains on him. When the time for embarkation arrived, the Spaniard was taken from the obraje and delivered to the port
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of Acapulco.

The institution of apprenticeship was practiced in New Spain's textile industry. Young men were apprenticed by their parents or relatives into an obraje in order to learn a trade. The period of apprenticeship lasted 2, 3, or sometimes 4 years. In most cases, the apprentices were not allowed to leave the workshops. During their period of training, they received no wages and were guaranteed only meals and clothing.

³⁵AGN, Hospital de Jesús, Legajo 318, Exp. 41. Petrona Nila and Juan de Trujillo were relative bargains. The Sala de Crimen insisted on a wage of 3 pesos a month. The higher wage assured the court of a larger fine.

³⁶AGN, Hospital de Jesús, Legajo 318, Exp. 38.

At the conclusion of the apprenticeship, the young men were given a full set of clothes and some contracts required
 37 either 30 pesos or a new set of clothes of equivalent value.

The congregation of idle, young vagabonds within Mexico City was particularly acute in the 18th century. Unemployment, poverty, or simple youthful wanderlust produced a steady stream of vagabonds into the capital. They loitered in the public squares, harrassed shoppers and pedestrians, and were generally considered a source of crime. Many were picked up by the city's alguaciles or constables and taken to local obrajes in order to learn a trade. The young vagabonds were considered apprentices, but they worked longer than the usual apprenticeships and sometimes they were kept working for years after their apprenticeships were officially concluded. They must therefore be considered prisoners, sentenced by the government to a long term of vocational training.

The obraje of El Placer, owned by Manuel de Candia, was located in the town of Mixcoac, outside of Mexico City, in the jurisdiction of Coyoacán. The workshop was inspected

³⁷ Boletín del Archivo General de la Nación, vol. XI, p. 115. See also AGN, Hospital de Jesus, Legajo 318, Exp. 40. The apprenticeship of Pedro de la Cruz, a chino, between 18 and 25 years old, dated July 10, 1691.

in 1756 and closed one year later, because Candia paid some of the workers in tokens and fed those confined in the workshop a meager diet. Of the workers interviewed, 9 were sent to El Placer to serve compulsory apprenticeships. The average apprenticeship lasted 4 or 5 years, but one man served 7 years because of debts contracted inside the obraje. All the young men told similar stories about their arrest. Juan Barrios, a mestizo, and Luis Joseph, an Indian, were both 14 years old when they were arrested in the central plaza of Mexico City. Without money, a trade, or relatives within the city, the youths were placed in Candia's obraje to learn a trade. Neither Barrios, who served 7 years, nor Luis Joseph, who served 5 years, were released. When El Placer was closed³⁸ in 1757, the two men had each served 10 years without pay.

The youngest apprentice within El Placer was Mariano Castro, a 12 year old mulatto boy, who had entered the workshop when he was 10 years old. The boy owed the vicar of the Convent of Corpus Cristi 4½ pesos, which he could not pay. The boy was taken, on the orders of an alcalde, to Candia's³⁹ obraje to learn a trade. The majority of El Placer's

³⁸ AGN, Tierras, vol. 2016, Exp. 2, f. 60, 63v, 66v, 67.

³⁹ Ibid, f. 69.

apprentices had no complaints and many remained as free workers after their apprenticeships were concluded. The existence of contradictory testimony often reflected the individual experiences of the workforce. No two workers were treated alike; personality, work habits, attitude, and personal debts effected the relationship between the workers and the supervisors.

The criminals comprised the worst part of the workforce and, among the prisoners, the least desirable workers. The workshop owners incurred serious losses when their prisoners escaped. Alonso Segade Bugeiro claimed in 1716 to have lost more than 800 pesos when criminals imprisoned in his obraje in Coyoacán⁴⁰ escaped. A small workshop owner in Querétaro complained in 1717 that 5 prisoners, placed in his trapiche by the Sala de Crimen, escaped and took 3 slaves with them. The prisoners and slaves slept in the same room, and one night they dug a hole through the adobe wall with an old knife and escaped. The obrajero was certain that the criminals were responsible. Based on his experience, which threatened to ruin his business, he asked the Sala de Crimen⁴¹ that he should be exempted from the repartimiento of criminals.

⁴⁰ AGN, Criminales, vol. 137, Exp. 19, f. 414-423.

⁴¹ AGN, Civil, vol. 1628, Exp. 1, f. 1-2v.

Opposition to the repartimiento of criminals had little effect as long as the Sala de Crimen derived monetary benefits from the system. The majority of obrajeros accepted the criminals and placed them, hobbled by chains, with the debtors and slaves to share a common life of labor. Very few obrajes, none of them within Coyoacán, employed a large number of criminals. Coyoacán's obrajeros were content to accept them as auxiliary labor. They were treated as debtors and confined until their debts were paid. The obraje therefore served a penal function in a society that could not afford prisons.

CHAPTER VII

OBRAJE LIFE AND WORKING CONDITIONS

The penal conditions of obraje life were hard, but not unendurable. The majority of prisoners survived their period of temporary servitude, and although they suffered deprivation and punishment, few died as a result of harsh working conditions. A prisoner's life was not substantially different from the working life of a freeman or a slave. They were required to perform the same daily work, fed the same food, and subjected to the same harsh discipline. The prisoners, however, were unable to leave the textile mills and were therefore absolutely at the mercy of the obrajero and his supervisors. The criminals, the pariahs of the workshops, were given the minimum of everything and punished at the least provocation.

Prisoners, slaves, apprentices, and many of the free workers lived in the obraje and slept within its rooms. In

1723 the prisoners and slaves employed in the workshop of La Limpia Concepción del Pedregal, located in the town of Coyoacán, slept "in one of the large cells (where there are 30 men, more or less, slaves and prisoners sold by the Sala¹ de Crimen" The dormitory was called the saca,² but in some obrajes there were no separate dormitories nor bedding other than straw. The single men employed in the workshop of Pedro de Avila, located within the town of Mixcoac, spent their nights in 1687 locked in a room where they slept, without covers, on the floor. Ignacio Piñón de los Reyes, a mulatto prisoner, "covered himself with a part of a straw mat"² Workers and prisoners employed in Diego de Contreras's obraje in 1689 slept in a workroom, without covers, and also³ on the floor.

Married couples and their families were separated from the single men. In some workshops, they slept in dormitories assigned to married couples, but in rural obrajes they slept outside the workshops in shacks called jacales or ranchos, owned by the obrajero and built on his land. The

¹ AGN, Inquisición, vol. 803, Exp. 62, f. 569-573.

² AGN, Hospital de Jesús, Legajo 318, Exp. 46.

³ Ibid, Legajo 318, Exp. 37.

small houses helped to retain workers. Juan Gallardo de Céspedes, owner of an obraje in Coyoacán, treated his workers and slaves humanely and endeavored to retain them by providing housing and a relaxed atmosphere. Workers and slaves who had families and possessed small houses were usually contented and remained in an obraje for many years. A mestizo named Francisco Juárez, his wife, and daughter lived in a rancho outside Juan Gallardo's obraje in 1660. Francisco Juárez was employed in the workshop for 14 years.⁴ Residents of the ranchos were allowed to collect wood, pasture small, domestic animals, garden, and collect tuna, a prickly pear with sweet fruit that was widely grown throughout Mexico.⁵

The majority of prisoners were assigned the unskilled and dirty work of carding and cleaning wool. Ten pounds of clean wool was the average daily workload required of carders in the textile industry. Eleven pounds of unclean wool were distributed to the carders in Diego de Contreras's obraje in 1689, but one pound was considered lost in waste.⁶ The carders employed in Pedro de Avila's workshop in 1687, however, were

⁴ Boletín del Archivo General de la Nación, vol. XI, p. 74-77.

⁵ AGN, Tierras, vol. 932, Exp. 1, f. 263. Balthasar de Sauto claimed that most of his workers and slaves lived on his land and paid nothing for it's use.

⁶ AGN, Hospital de Jesus, Legajo 318, Exp. 37.

forced to card 10 pounds one day and 11 pounds the next day, an increase of 1 pound every other day. The carders claimed that the workload was excessive and because they feared punishment, they worked at night and on holidays to complete the assignments.⁷

The distribution of wool was closely scrutinized to prevent thefts. The wool was weighed before and after the process of carding and an allowance was usually made for waste. The obrajero Matías de la Vega charged the workers and the prisoners employed in his workshop 1 peso for every pound of wool they lost; in addition, anyone who returned an assignment beneath its proper weight was whipped by the supervisors. According to the testimony of a weaver named Esteban de Monserrate, the workers stole wool from each other; another weaver, Esteban Bautista, testified that the prisoners stole more wool than anyone else. The stolen wool⁸ was smuggled outside the obraje and sold.

The loss of wool was a serious breach of discipline and, in some cases, amounted to as much as 2 to 3 pounds of wool from a daily assignment. The shortages were partly

⁷AGN, Hospital de Jesús, Legajo 318, Exp. 46. A working day was usually from sunrise to sunset.

⁸AGN, Hospital de Jesús, Legajo 318, Exp. 40. Matías de la Vega's obraje was inspected by Juan de Arteaga on March 4, 1693. Testimony on the theft of wool was collected during the visita.

explained by waste and humidity, but the losses from theft were also genuine. The thieves were usually discovered and severely punished. Sebastián Bellugo had a bad reputation in Matías de la Vega's obraje. His "whole body was scarred" from the whippings he received because of shortages of wool⁹ and other infractions. The obrajero Pedro de Avila accused an Indian employee in 1693 of opening the storeroom and stealing a quantity of wool. The worker, Marcos de Santiago, was detained by the corregidor of Coyoacán in the obraje of Francisco de Ansaldo.¹⁰

Juan de Vega, a native of the Philippine Islands, was a prisoner in the obraje of Melchor Díaz de Posadas in 1660. The prisoner, as well as other men and women, were beaten by Posadas's son and the black slaves who helped run the workshop.¹¹ A mulatto slave named Nicolas Bazán and 7 other workers were severely beaten on the suspicion that they were stealing wool. The workers "were tied with cactus cord and after they received many blows, collars were placed around their necks, which made it difficult for them to eat; as a further punishment, their daily workload was increased by

⁹AGN, Hospital de Jesús, Legajo 318, Exp. 46.

¹⁰Ibid, Legajo 318, Exp. 30.

¹¹Boletín del Archivo General de la Nación, vol. XI, p. 70-72.

half and they received so many additional punishments that¹² they thought they would die." Deaths did occur that were attributed to the beatings. The wife of Jerónimo de Vergara, a mulatto slave, died after she received a beating, and a mulatto boy was also fatally beaten by Posadas's son. The boy died a few days later and was secretly buried outside¹³ the workshop.

The textile industry utilized corporal punishment to enforce work rules and to discipline lazy workers. A typical incident was reported to the Inquisition in 1661, because a charge of blasphemy was lodged against a black slave named Gonzalo Negro Mozambique. The slave was employed as a carder in a textile mill in the town of Azcapazalco near Mexico City. An ayudante, who assisted the mayordomo of the obraje, asked the slave to show him half a day's work. A carder was required to clean 10 pounds of wool a day, but Gonzalo had hardly cleaned 2 pounds; "the ayudante wanted to whip Gonzalo and ordered him to remove his shoes, but Gonzalo procrastinated until the mayordomo arrived to help¹⁴ remove them and then Gonzalo cursed God"

¹² Boletín del Archivo General de la Nación, vol XI, p. 61.

¹³ Ibid, p. 51, 54-55.

¹⁴ AGN, Inquisición, vol. 705, Exp. 7, f. 45-56.

The Inquisition's dedication to testimony and detail preserved a record of obraje penal life. The punishment of blasphemy converted the Inquisition into an instrument to punish unruly prisoners and malcontents. Juan Joseph Porras, a mulatto prisoner, was employed in the obraje of La Limpia Concepción del Pedregal in 1723. One night the prisoner was overheard cursing and blaspheming, because the mayordomo had beaten him during the day. When the obrajero was informed, he reported the incident, as a "zealous Christian," to the Inquisition. The Court of the Inquisition found Porras guilty of blasphemy and ordered him whipped 25 times in the obraje's patio before the slaves and prisoners. After the punishment, Porras begged his fellow workers to forgive him, and the ordeal was ended with a pious sermon from a representative of the Holy Office.¹⁵

The earliest colonial laws regulating the obrajes stipulated minimum standards of diet. The obrajeros were ordered in 1569 to provide a basic diet of 18 large tortillas or 14 tamales every day and meat at least 2 or 3 times a week.¹⁶

¹⁵AGN, Inquisición, vol. 803, Exp. 62, f. 569-573.

¹⁶A tortilla is a round, flat pancake made from corn meal and cooked above the fire, and a tamal is a cake of corn meal and filling, wrapped in corn husks, and baked in the fire. The tortilla and tamal are an excellent source of nutrition.

The rest of the week and during periods when meat was scarce, the obrajero was ordered to serve beans and chiles with the ¹⁷tortillas and tamales. Ten years later, the law was amended to guarantee that a basic amount of food was served. The obrajeros had to provide "2 pounds of tortillas, tamales or European bread" each day. To this basic diet, meat or beans was to be added at the noon meal and at least 3 or 4 chiles ¹⁸to the evening meal.

The amount of food prisoners, slaves, and workers actually received varied throughout the industry. There was no apparent pattern to the distribution of food in the obrajes of Coyoacán at the end of the 17th century. Prisoners employed in the obraje of Pedro de Avila in 1687 were fed at irregular hours. Breakfast consisted of 4 tortillas served with a small amount of atole, a beverage made from corn. The main meal of the day was served at 4 o'clock in the afternoon and it consisted of 4 tortillas and a small piece of meat. Sometime between 8 and 11 o'clock in the evening, the prisoners ¹⁹were fed an additional 4 tortillas. Worse conditions prevailed in Diego de Contreras's workshop in 1689. The

¹⁷"Sobre los obrajes," in Ordenanzas del trabajo, p. 144. Chiles are Mexican hot peppers.

¹⁸"Declaración de las ordenanzas de los obrajes," in Ordenanzas del Trabajo, p. 148.

¹⁹AGN, Hospital de Jesús, Legajo 318, Exp. 46.

prisoners complained that sometimes they were not fed for 2 or 3 days and that their usual diet was composed of "a very
20
small amount of tortillas and meat."

Testimony collected during a visita was not easily verifiable and in many cases represented contradictory claims. The mayordomo of Matías de la Vega's obraje told the magistrate Juan de Arteaga, on March 4, 1693, that the workers
21
were given 5 pounds of meat a week and an almud of corn. In addition, atole was served every morning with breakfast. The prisoners, on the other hand, testified that they were given 4 tortillas and a small amount of atole in the morning, 4 tortillas, served with meat, at a midday meal, and 4 tortillas in the evening. They received a total of only 1
22
pound of meat a week, which they claimed lasted only 2 days.

The regulation of diet was beyond the capacity of the royal government to control. Customs varied throughout the textile industry. The prisoners, for example, were usually given either cooked meals or a weekly ration. The prisoners and slaves employed in Balthasar de Sauto's workshop in San

²⁰AGN, Hospital de Jesus, Legajo 318, Exp. 37.

²¹An almud equaled $\frac{1}{2}$ a fanega or approximately $\frac{3}{4}$ of a bushel.

²²AGN, Hospital de Jesús, Legajo 318, Exp. 40.

Miguel El Grande were given a weekly allotment of food in 1767. Those who had no one to prepare their meals were able to obtain the help of several local women who cooked and prepared their meals. The women kept whatever was left of the week's rations.²³ Sweets, as well as other items not available in the company store, were sold inside the obraje by some of Sauto's trusted slaves. Since they were able to enter and leave the workshop, they took advantage of the privilege to peddle merchandise to the prisoners.²⁴

The obraje workers, especially those who worked with raw wool and cotton, seldom wore much clothing. The sight appalled visitors and magistrates who considered their partially naked bodies and ragged attire a sign of absolute misery. Alexander von Humboldt, for example, was shocked by the observation that the textile workers and prisoners, who worked in Querétaro's obrajes in 1803, were "half nude" and "covered with rags"²⁵ The obrajeros, however, were not entirely to blame for the ragged state of the workforce. The carders worked in unventilated rooms, next to storerooms that

²³ AGN, Tierras, vol. 932, Exp. 1, f. 110v. The free workers received their weekly wages in three installments in order to purchase food.

²⁴ Ibid, f. 152v.

²⁵ Alejandro de Humboldt, Ensayo político sobre el reino de la Nueva España, p. 452.

contained large quantities of wool and cotton. An atmosphere, heavy with sweat, noisome and hot pervaded the workrooms. The carders, under these conditions, preferred to work only in pants, because additional garments collected sweat, dirt, and fleas.

Ignacio Piñón de los Reyes, a mulatto prisoner, worked only in pants while he was imprisoned in the obraje of Pedro de Avila in 1687. Every year, he received "one pair²⁶ of blue cotton pants," which were his only clothes. The prisoner's attire might not have been contrary to his own choice. Balthasar de Sauto's workers preferred rags to the new clothes they received each year from the obrajero. They sold their new clothes and ignored the owner's attempts to stop their sale. At first, Sauto tried threats, then he labeled the clothes to identify the owners, and finally the obrajero was forced to resort to humiliation. Workers who sold their clothes were forced to wear sacks, "but as a result, they sold the sacks too" They stubbornly worked without clothing, except for a small piece of cloth worn to preserve some modesty. One witness interviewed by the corregidor of Querétaro in 1767 believed the workers preferred nudity,

²⁶AGN, Hospital de Jesús, Legajo 318, Exp. 46.

because the clothes "collected sweat and were full of fleas."²⁷

All prisoners were essentially indentured workers who owed money to their employers. The debts were the legal chains of the system and as long as they existed forced labor continued. The magistrate Juan de Arteaga noted, after inspecting Diego de Contreras's textile mill in 1689, that "the Indians sent by the Royal Sala de Crimen are kept in this obraje after the completion of their sentences by pretexts of additional costs, payment of tribute, and the loss of wool from their daily assignments."²⁸ The purchase of basic necessities from the company store added to the debts of all obraje employees. Ordinary work clothes, for example, cost a worker almost a month's wages. Blas Mexia, owner of a textile workshop in the town of Mixcoac, charged Manuel de Silva 2 pesos 2 reales for a pair of pants and a

²⁷ AGN, Tierras, vol. 932, Exp. 1, f. 63v, 64, 264v, 265. The magistrate Diego Fernández de la Madrid, whose report of his visita to Sauto's obraje provoked the anger of King Charles III in 1761, was unable to force the workers to dress. When the royal visitador saw the half naked workers, he ordered Sauto to provide them with new clothes. The visita lasted 15 days and before it was over some of the workers "had sold their clothes and others refused to wear them...." The story was apparently true, because the witnesses who testified in the visita of 1767 were very amused by it.

²⁸ AGN, Hospital de Jesús, Legajo 318, Exp. 37.

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belt in 1707. Similar prices charged by the Tlaxcalan obrajero Diego Fernández Lamberto were considered exorbitant
 30
 in 1712.

Sundays and holidays were days of leisure for the prisoners and slaves employed in the textile industry. Antonio Ramos, a mestizo prisoner, told a royal inspector that he was relatively contented. The prisoner carded wool in the Coyoacán obraje of Juan Baptista Baruche in 1705. On Sundays and on holidays, he told the visitador, no one worked "but everyone has something to do, some wash themselves and
 31
 others sing and dance." In the obraje of Juan de Posadas y Agurto, the visitador, Miguel Calderón de la Barca, was again informed that the laws concerning leisure time were obeyed. Pasqual Ramos, a mestizo prisoner and a carder, told the magistrate that after he went to mass, he spent Sundays and holidays resting, washing, singing, dancing, and other
 32
 "lawful things."

The laws about leisure time were neither consistently obeyed nor enforced. Prisoners and indentured workers in the

²⁹ AGN, Hospital de Jesús, Legajo 319, Exp. 67.

³⁰ See Chapter V, page 100.

³¹ AGN, Hospital de Jesús, Legajo 319, Exp. 59.

³² Ibid., Legajo 319, Exp. 60.

obrajes of Nuestra Señora de los Dolores, owned by Diego Fernandez Lamberto, and Nuestra Señora de Loreto, owned by Juan de Vargas, worked on holidays and late at night to finish their assignments. The two textile workshops, located in the town of Apizaco in the province of Tlaxcala, were inspected in 1707 and again in 1712. Abuses discovered in the visitas of 1707 were repeated in the reports of 1712.³³ Many obrajeros, who were influential in their communities and with the local magistrates, ignored the inspections and the reports.

A conspiracy of silence, shared by the workers, the prisoners, and the employers, cloaked the existence of gambling and drinking in the obrajes. The monotony and frustration of imprisonment and labor encouraged the pastime of drinking and gambling. Both were illegal vices, but were tolerated by the owners.³⁴ The visitadores were seldom informed about these illegal activities, because the workers rarely confided in them. The carders employed in Manuel de Candia's obraje of El Placer in 1755 received 1 real in silver every Saturday as a part of their weekly pay. The other 11 reales were

³³ MNA, Serie Tlaxcala, rollo 5.

³⁴ The obraje ordinance of 1569 prohibited gambling and the drinking of pulque in the obrajes. See "Sobre los obrajes," in Ordenanzas del trabajo, p. 144.

taken in merchandise and in the form of tokens or credit that could be used in the company store. The workers, however, needed the silver real in order to buy pulque³⁵ and to wager small amounts of money in card games.

A dispute between Teresa de Vertiz, owner of the obraje of Panzacola in Coyoacan, and her neighbor Pedro de Iriarte, a Mexico City businessman, revealed the existence of an illegal tavern. The tavern was situated in an old, dilapidated house that had an excellent location next to the royal road. The property belonged to the obraje of Panzacola, but it was rented to an unknown individual in 1756 who operated the pulquería. Men and women, workers from the textile mill and servants from Iriarte's estate, drank, danced, and gambled inside the old house. Drunkenness and scandal infuriated Iriarte, and he was forced to send some of his servants back to Mexico City. The only solution was to close the tavern. Iriarte demanded that Teresa de Vertiz sell the property to him. She refused and her right³⁶ to the property was ultimately upheld in the courts.

Confinement and harsh discipline had an adverse

³⁵AGN, Tierras, vol. 2016, Exp. 2, f. 90.

³⁶AGN, Tierras, vol. 2009, Exp. 5.

effect on the prisoners and indentured workers. Some were defiant and others were despondent; some dreamed of escape and were successful, but the chains and guards were usually too much to overcome. Nevertheless, the desire to escape produced a remarkable amount of sophistication and deceit. Bernardo Francisco Chipres, a mulatto weaver, sold by the Sala de Crimen to the sugar mill of Cocoyoc, located near the city of Cuernavaca, confessed in 1717 to bigamy. The prisoner was transferred to the prison of the Inquisition and questioned by the Inquisitors. The interrogation revealed that Chipres's confession was false. The prisoner desperately wanted to leave the sugar mill, because he was beaten and
 37
 abused. As in similar cases, the Inquisition was considered a lesser evil; the prisoners and slaves who concocted false confessions usually hoped that the Inquisition might feel enough pity to transfer them to a new employer.

Despondency and loneliness inevitably nurtured eccentric and deviant behavior. The father of Teresa de Vertiz, Juan de Vertiz, owner of the obraje of Panzacola, acquired a mestizo prisoner from the Sala de Crimen in 1702. After 3 years of imprisonment, the 26 year old man confessed to a number of sacrilegious and blasphemous acts. Francisco Joseph's

³⁷ AGN, Inquisición, vol. 757, f. 185-190v.

confession was authentic; he had unsuccessfully tried to solicit the devil's help. The original request was modest: "hoping to form a pact with the devil, in order to help him card, he painted the devil's image on the back of a card in charcoal" When no help was obtained, the prisoner decided to commit an act of sacrilege.

Francisco Joseph waited until everyone was asleep in order to attack a statue of Christ that stood on an altar in the obraje's chapel. Originally, the prisoner planned to remove the statue from the altar, tie it to a stone pillar, and whip it. When the statue would not move from its place on the altar, Francisco tore off Christ's crown and robe and threw them to the floor. In a state of frustration, Francisco returned to the dormitory. The next day, the mayordomo punished two young men who slept closest to the defiled altar. Other acts of sacrilege followed, but nothing was effective. Finally, Francisco told a priest that he wished to denounce himself to the Inquisition. On May 19, 1705, the prisoner was brought to Mexico City to confess his sins. The interrogation revealed that Francisco had little knowledge of Christianity. Since he was ignorant, the Inquisition was lenient. Seven months later, Francisco was brought back to the obraje, whipped in front of the prisoners and workers, and allowed to return to work. The Inquisition, however, ordered the obrajero to

provide the repentant prisoner with instruction in the
 38
 meaning of Christianity.

The unnatural separation of men from women for long periods of time produced deviant sexual behavior. Homosexuality was associated with imprisonment, and the prisoners, indentured workers, and slaves who worked in the obrajes, separated from women, were no exception. The Roman Catholic Church considered homosexual relationships unnatural and evil, and the punishment was therefore severe. On Monday, November 13, 1673, 7 men, described as mulattos, blacks, and mestizos, were burned in Mexico City, because the Court of the Inquisition found them guilty of homosexuality. The condemned men had been employed in Juan de Avila's obraje, which was situated in the nearby
 39
 town of Mixcoac.

The discovery severely damaged Avila's business and maybe even the obrajero's health. Ownership passed to a son, Pedro de Avila, but the workshop was placed under a cloud of suspicion. Avila's obraje was again investigated in 1685 or 1686, and a number of men were taken to the Audiencia's jail in Mexico City. An Indian prisoner named Juan Diego, who was

³⁸ AGN, Inquisición, vol. 729, Exp. 22, f. 530-543.

³⁹ Antonio de Robles, Diario de sucesos notables (1665-1703) 3 vols (Mexico: Editorial Porrúa, 1946)1, 137.

sold to the obraje by the Sala de Crimen in 1684, told the magistrate Juan de Arteaga, during the visita of 1687, that he had given evidence against other workers. The workers were eventually convicted of homosexuality. As a result of his testimony, Juan Diego complained, the owner and the ⁴⁰mayordomo persecuted him. It is unlikely that Avila's obraje was unusual; homosexuality must be viewed as a part of the larger problem of forced labor and imprisonment.

Confinement, hard labor, and the deprivation of freedom promoted either overt deviant behavior, feigned docility, or sometimes a psychological retreat into despondancy. The prisoners were unable to verbally protest the deprivation and brutality of penal life. Obedience, enforced by the whip, made protests mute. A slowdown of productivity was considered laziness and sickness was considered malingering. Beatings were a part of obraje life and protests were futile. The prisoners and workers were even deprived of their ability to curse, since profanity invited a charge of blasphemy and subsequent prosecution, as well as punishment, by the Holy Office of the Inquisition.

The prisoners expressed their complaints by a written

⁴⁰AGN, Hospital de Jesús, Legajo 318, Exp. 46.

petition to a magistrate or verbally to a magistrate during a visita. The efficacy of petitions cannot be easily tested. Prisoners, too afraid to petition or unable to find someone to write a petition, cannot be legitimately measured. Fear must be recognized as a factor that inhibited the process of petitioning and therefore the redress of grievances. Some supervisors and guards took sadistic pleasure in the beatings and punishments they inflicted on the prisoners and other workers. It did not take either much experience or intuition to recognize that the magistrates rarely punished an obrajero⁴¹ because he abused a prisoner. The process of petitioning offered redress to a lucky few, but it did not represent an adequate check to abuse.

The obraje was a textile workshop, a prison, and a community. Free workers, prisoners, and slaves formed the working population that operated the textile mills. The first workshops held all their workers locked within the main building. The closed obraje, which survived until the end of the colonial

⁴¹ Neither Melchor Díaz de Posadas nor any of his sons were arrested or punished because of the atrocities committed within his obraje. Posadas's obraje represented an extreme example, but there is no evidence to assume that the incidents of sadism and torture did not occur in other obrajes. In fact, corporal punishment was employed in all the workshops of New Spain. In the majority of workshops corporal punishment was probably applied moderately to preserve discipline; in many other workshops moderation led to excess and abuse.

period, was opened in the 17th century by vigorous enforcement of the labor ordinances. The opening of the textile workshops permitted free labor to live outside the workshops in their traditional communities. The location of a textile mill within or near a town or a city enabled the mill to recruit a free workforce of urban residents. Outside of an urban community, the obraje formed a community of it's own. Free workers and trusted slaves were housed by the obrajeros on land that belonged to the obrajes. The small houses formed a community of families that worked in the textile mills, purchased merchandise from the company stores, borrowed money from the obrajeros, prayed in the chapels of the obrajes, and often remained to form a permanent community attached to the workshops.

Inside the workshops, another community of slaves, apprentices, prisoners, and indentured workers lived and worked without the privilege of leaving the obraje. The criminals, who always wore chains, usually received the worst treatment and performed the dirtiest work. Everyone inside the obraje was subjected to the authority of the supervisor and his staff. The worst stories of abuse and mistreatment were usually associated with the workforce living inside the textile mill. The supervisors, either naturally or reluctantly, used force to maintain their authority. The penal environment

that was sustained by incarceration and force tainted the historical development of the colonial textile industry.

It is a truism that generalizations about a large, dispersed industry, in operation for over 250 years, cannot be universally valid. Working conditions and experiences differed from one workshop to another, from one region to another, and from one historical period to another. The generally accepted and melancholy picture of obraje life remains at the moment a valid picture. Distinctions did exist in the treatment of prisoners and workers, but the influence of the system of debts, the repartimiento of criminals, and the use of force sustained a penal tradition within the colonial textile industry.

CONCLUSION

When the English sailor Miles Philip was temporarily detained in a Texcoco obraje in 1569, he naturally concluded, based on his experience, that the obraje was a house of correction. The workhouse was a European institution to punish criminals, debtors, and the unemployed. Exploitation was traditional and among the privately owned prisons of England it was considered a property right. The English prison, as was the custom in Spain, was a place of detention; although criminals and debtors were detained inside the jail, punishment was only incidental to the jail's true purpose. The true purpose of English imprisonment, wrote Christopher Hibbert, was not to punish the prisoners in order "to make them better men but the threat and example of punishment helped those who owned or ran the prisons to make money out of them."¹

¹Christopher Hibbert, The Roots of Evil, A Social History of Crime and Punishment (Minerva Press, 1968)p. 132-133.

Colonial penal servitude was a natural extension of European penal institutions.

Social doctrines based on self interest were popular in Western Europe after the primacy of theology was challenged by European intellectuals and governments. They romanticized the exploitation of labor and glorified self interest by identification with the nation and national prosperity. The ideology known to history as mercantilism justified national wealth and power from the secular and rational standards of utility. No source of potential wealth was too small or inconsequential to escape the inquiry of the mercantilists. "It is not surprising," wrote Eli Heckscher, "that the aim of organizing beggars and vagabonds in schemes of compulsory work was viewed as a means of increasing the wealth of the country. But it is interesting to find that the mercantilists regarded the exercise of judicial power throughout as a mechanism for providing society with labor and revenue under particularly advantageous conditions." Colonial penal exploitation represented an excellent example of a profitable system of punishment that was based on a concept of utility.

The sale and distribution of penal labor was an important source of judicial income. The collection of fines

² Eli Heckscher, Mercantilism, 2, 297.

and court related expenses transferred part of the cost of maintaining and operating the colonial judiciary from the royal government to the employers of penal labor. In the end, however, the prisoners paid the cost of their own arrest, imprisonment, and trial, as well as whatever fines imposed upon them. Both the private employers and the colonial judiciary benefited, and the benefits derived were mutual and reciprocal. By the 18th century, the profits of penal labor were large enough to induce the Royal Audiencia to organize the trade and to make the acceptance of prisoners compulsory.

The demographic recovery of the colonial population, in the 18th century, was reflected in the rising crime rate, which strained the limited capacity of the public jails and helped to justify to public officials the necessity of compulsory private imprisonment. Despite the opposition of many employers, who were unwilling to become jailers, the compulsory repartimiento of prisoners continued until its abolition in 1767. It should be repeated that colonial employers did not oppose the imprisonment of employees but only criminals in their workshops. Debtors composed a majority of the workforce employed in colonial workshops. The threat of penal servitude was considered a guarantee of labor fidelity. When an Indian carder attempted to evade an obligation to work

in a Cholula obraje in 1715, after he was given an advance of 43 pesos, the obrajero Juan Thenorio de la Vanda, was forced to petition the viceroy. In his petition, the obrajero explained that the Indian must be forced to work because "by his example all of his other workers, who freely work and owe money, ... would leave and all work would cease and the same thing would occur in all the other obrajes and trapiches"³

Throughout colonial history, the obraje was associated with the imprisonment of workers and with penal labor. Foreign visitors were shocked by the terrible working conditions, the ragged appearance of the workforce, and the mixture of free and penal labor within the textile mills. A perusal of the royal ordinances that regulated the textile industry only supported the testimony of numerous eyewitnesses. Unlike other colonial institutions, the obrajes have resisted the fashions of history and the work of revisionists. The extraordinary historical consensus has left unchanged the traditional view of the colonial textile workshop, which Lesley Byrd Simpson has called "one of the ugliest of colonial institutions"⁴

³FHT, 8, 211-213.

⁴Lesley Byrd Simpson, Many Mexicos (Berkeley, University of California Press, 1966)p. 126.

The notorious reputation of the obrajes was established early in colonial history. "The sequestration of Indians for private labor outside encomienda and repartimiento," wrote Charles Gibson, "began not on Spanish farms but in workshops for the production of woolen cloth, known to colonial people as obrajes."⁵ Gibson believed the obrajes were forced to rely on the imprisonment of free workers and on penal labor, because they could not obtain enough repartimiento labor. The colonial government considered "the obraje tasks unsuited to the rotational labor of repartimiento" as well as contrary to the "public good."⁶ Without an adequate source of free labor, the textile mills turned to the public jails to obtain additional workers and in the process became private prisons. The textile industry was therefore tainted at its inception by the coercion of labor.

The royal government consistently opposed the unauthorized imprisonment of free Indian workers: a policy which had moments of vigorous enforcement and long periods of neglect. Although the royal policy was not a success, it cannot be dismissed as having no effect on the textile

⁵Charles Gibson, The Aztecs Under Spanish Rule, A History of the Valley of Mexico, 1519-1810 (Stanford, 1964) p. 243.

⁶Ibid, p. 244-245.

industry. Government pressure on the 17th century obrajeros, to buy chattel slaves to replace Indian labor, was a success in many areas. The obrajeros of Coyoacán invested heavily in slaves, because many were new owners who needed royal licenses in order to operate their textile mills. Querétaro manufacturers, according to John C. Super, utilized black slaves in the early 17th century to supplement free Indian labor, but "after the 1630's there was a reversal of this situation, with some obrajes depending first on slave labor, and secondarily on the available Indians."⁷

The acquisition of slaves represented a major shift in the workforce traditionally employed in the obrajes. The change may be attributed to the administration of the Marqués de Cerralvo and greater royal control over the licensing of obrajes. The demographic decline and the concentration of Indian labor in the mines and on the haciendas were also factors in the acquisition of slaves. Even small workshops purchased slaves to avoid problems. Leonor Godines, for example, owned in 1689 a workshop of 5 looms in the city of Puebla. Her workforce consisted of 20 black and mulatto slaves and 1 mulatto prisoner whom she purchased from a royal magistrate.⁸

⁷John C. Super, "Querétaro Obrajes: Industry and Society in Provincial Mexico, 1600-1810," HAHR, (May 1976)p. 206.

⁸AGN, Civil, vol. 142, Exp. 10.

Wealthy obrajeros invested large sums of money to buy slaves, but even a workforce of free workers required a large initial investment in wage advances and loans. The growth and recovery of the colonial population, evident in the 18th century, was also reflected in the recruitment of free labor in the textile industry. The protests of employers against the repartimiento of criminals would seem to indicate⁹ that the supply of free labor had increased. Penal labor, always a supplementary source of labor, was not a significant factor in the recruitment of workers. The Querétaro manufacturers were not dependent on penal labor and, according to John C. Super, "it remained numerically inconsequential for Querétaro¹⁰ factories" Penal servitude, however, guaranteed the retention of a much larger workforce of free workers, who owed money to their employers and worked in order to pay back debts.

⁹ It is possible that the protests merely reflected the vigorous promotion of the trade in criminals by the Royal Sala de Crimen. The extension of the repartimiento of criminals to reluctant employers may explain the rash of protests between 1712 and 1720.

¹⁰ John C. Super, "Querétaro Obrajes: Industry and Society in Provincial Mexico, 1600-1810," HAHR p. 207. Super's chronology is not very precise, but it would appear from the context of his statement that he referred only to the 18th century. It would be helpful to determine if there were any significant patterns of distribution that would explain the observations of numerous visitors to the Querétaro factories.

The channeling of penal labor to the royal presidios of New Spain and the Caribbean ended the Sala de Crimen's lucrative repartimiento of criminals. Nevertheless, the employment of prisoners in the textile industry continued long after the trade in prisoners was abolished. Unlike Alexander von Humboldt, colonial manufacturers did not consider penal labor archaic nor the mixture of free workers and chained prisoners incompatible with the manufacture of cloth. The humane and enlightened scientist represented a more advanced state of manufacture that was in the process of industrial mechanization. Colonial employers were still dependent on a primitive manufacturing system. Labor costs were high and penal workers were relatively inexpensive; furthermore, the threat posed by penal servitude was an employer's only guarantee that workers's debts would ever be repaid.

The reluctance of the royal magistrates, at the end of the 18th century, to return debtors to their employers threatened the traditional method of labor recruitment and retention in the textile industry. The relationship between the manufacturers and the royal magistrates were traditionally cooperative. The magistrates played an active role in the management of labor. They authenticated labor contracts, resolved worker grievances, and even supplied workers from

the public jail. Cooperation was absolutely necessary to maintain the system of debts, and the end of local police support left the obrajeros without a means to enforce their labor contracts. Among the proposals sent to the viceroy, to restore the textile industry in 1800, the Puebla manufacturers wanted the return of debtors to their former employers and the right to put chains on workers who attempted to escape the repayment of debts.

The concentration of information about penal labor in the colonial textile industry has limited the study of penal servitude to one notorious employer. Prisoners were distributed throughout the colonial economy: they were employed as servants in private homes, in hospitals, in urban trades, in sugar mills, in mines, and on haciendas. The pattern of distribution varied according to demand and the available labor supply. When the trade became organized by the Royal Audiencia, the demand for penal workers was subordinated to the supply of prisoners and the pattern of distribution was therefore widened. Eventually, the military needs of Spain's enormous overseas empire transformed the royal government into the largest employer of penal workers in the colony. The repartimiento of criminals was reduced to a royal monopoly; the chain gangs of prisoners which left

Mexico City delivered their cargo of prisoners exclusively to the presidios. Individual employers still managed to obtain prisoners, but the bulk of the penal population served in colonial fortresses, arsenals, ports, and in the army and navy.

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