

“Without Him the Indians Would Leave and Nothing Would Get Done”

*The Changing Relationship Between the Caciques and
the Audiencia of Charcas Following Francisco de
Toledo’s Reforms*

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Abstract

Viceroy Francisco de Toledo 16th century population re-concentrations of the indigenous peoples of Charcas (modern day Bolivia) have been widely recognized as the most definitive attempt to transform indigenous Andean society along Iberian lines of settlement and government. While the previously dispersed indigenous populations were resettled into a limited number of urban towns, native tribute obligations elevated, and Castilian forms of municipal government imposed, modern historiography is still debating the precise details of what Toledo’s reforms meant for the indigenous populations of this district. A review of decisions made by the Audiencia of Charcas and the contemporary correspondence of this court’s judges are examined to illustrate how the relationship between the high court and indigenous leaders (caciques) changed through the period of Toledo’s reforms. This investigation reveals an explicit and previously underappreciated transformation in the political model, from one where caciques frequently sought out and received legitimization from the Audiencia—similar to the model used in the Inca system—to a situation where the caciques understood and utilized the Audiencia less as a partner in power and instead as a forum to be opportunistically used to contest economic goods and privileges. Using the figure of the cacique as a proxy, this province-wide perspective on the changes engendered to native

society by Toledo's reforms is distinct from but complementary to the several more localized studies on the subject undertaken by other historians. The changes elucidated by these court records and official correspondence suggest the origins of the emergence of indigenous leaders whose skillful use of the colonial legal system would represent a hallmark of indigenous–Spanish relations for the rest of the colonial period.

Keywords

Acuerdos, Audiencia of Charcas, Caciques, Francisco de Toledo's Reforms, Indigenous Identity in 16th Century Charcas, Juan de Matienzo, Oidores

Resumen

Las reducciones indígenas en Charcas (actual Bolivia) llevadas a cabo por el Virrey Francisco de Toledo en el siglo XVI han sido ampliamente reconocidas como el intento definitivo de transformar la sociedad andina de acuerdo a esquemas ibéricos de gobierno. Si bien es indiscutible que bajo estas medidas las previamente dispersas poblaciones indígenas fueron reorganizadas en torno a centros urbanos, elevado el tributo nativo e impuestas formas castellanas de gobierno municipal; la historiografía moderna todavía discute las repercusiones que las reformas toledanas tuvieron en las poblaciones indígenas. Este trabajo plantea una revisión de las decisiones tomadas por la Real Audiencia de Charcas y la correspondencia de los jueces de esta corte con el propósito de mostrar hasta qué punto las relaciones entre la Audiencia y los líderes indígenas (caciques) cambiaron durante el período de las reformas toledanas. En su desarrollo, la investigación revela una transformación explícita —previamente no valorada— en el modelo político. De una situación en la que los caciques frecuentemente buscaban y recibían legitimación de la Audiencia (como en el sistema Inca) se pasa a otra, en la que los caciques percibían a la Audiencia como un foro que podía utilizarse oportunísticamente para disputar beneficios económicos. Recurriendo a la figura del cacique como “apoderado”, esta investigación en torno a los cambios generados en la sociedad andina a raíz de las reformas toledanas es distinta pero complementaria a estudios emprendidos por otros historiadores. Los cambios elucidados por registros judiciales y correspondencias oficiales sugieren los orígenes del surgimiento de líderes indígenas cuyo hábil manejo del sistema legal colonial será representativo de las relaciones indígena–españolas durante la colonia.

Palabras claves

Acuerdos, Audiencia de Charcas, Caciques, Identidad Indígena en el siglo XVI en Charcas, Juan de Matienzo, Oidores, Reformas de Francisco de Toledo

Introduction

The Audiencia of Charcas' jurisdiction reached tenuously over enormous swaths of modern day Bolivia, Paraguay, Chile, and Argentina. The many indigenous groups and fantastic ecological diversity characteristic of this region made its administration uniquely challenging. While Charcas initially represented the extreme southern frontier of Spanish settlement in Peru, discovery of precious metals—especially the rich Potosí mines in the 1540s—quickly gave these territories unique importance to the Spanish colonial venture. Following a fall off in precious metal production after the first decade of mineral exploitation in Potosí, a new method of using mercury to refine silver ore brought an even greater mining boom beginning in the 1570s which lasted for the next three decades (Barnadas).

The renewed precious metal boom led to an enormous population concentration of Europeans, indigenous peoples, and *criollos* in the region's urban mining centers. The population of Potosí climbed to well over one hundred thousand by the second half of the sixteenth century. The massive conglomerations of people in these cities and readily available metallic medium of exchange provided by the mines quickly led to the rapid development of trade networks, *obrajes*, and commercially-focused agriculture (especially in the Valley of Cochabamba) to provision the voracious material needs of the urban mining centers.

With the goal of providing more indigenous labor to work these mines, between 1570 and 1576 the Spanish viceroy in Peru, Francisco de Toledo, conducted an official review of the Peruvian territories to implement extensive reforms to both the colonial administration and underlying indigenous society. Through this process, the Viceroy and his lieutenants forcibly relocated hundreds of thousands of natives previously living in widely dispersed villages to instead inhabit nearly one thousand new towns designed and built in the image of Castilian urban centers. In addition to the implantation of Peninsular urban traditions, Toledo also created municipal offices for indigenous peoples reminiscent of those in Castile, assigned local judges to consider indigenous cases, and standardized and increased tribute obligations for these recently resettled groups.

Lope Díez de Armendáriz, the newly arrived head judge of the Audiencia of Charcas—the district's highest court of appeal—harshly criticized these reforms in 1576 when he wrote:

“no fueron tan atormentados ni aflijidos con todas las alteraciones y guerras pasadas porque a durado mas de quatro años la persecucion destes visitadores y reduzidores, que a costa de los yndios, an comido con mucha gente y cauallos que cada vno traya y los an hecho poblar muchas vezes mudandolos de vnas partes a otras y quemandoles las casas y haziendoles otras crueles vexaciones.”

“they were never as tormented nor afflicted with all the previous altercations and wars because the persecution of the *visitadores* and *reduzidores* has lasted for more than four years, who at the cost of the Indians, have consumed many people and horses that each person brought and they [the Indians] were made to settle many times moving them from certain parts to others and burning their houses and doing to them other cruel abuses.”

While several contemporary historians, including Abdón Yaranga Valderrama, have echoed Armendariz’s criticism of the destruction and enormous human suffering caused by Toledo’s reductions, these reforms also represented the most definitive in a series of initiatives by the colonial administration to force a Castilian institutional structure upon Andean indigenous society and, in so doing, redefine the relationship between the imposed government and the indigenous peoples in order to compel more natives to extract precious metals from the rich mines of Porco and Potosí (Málaga Medina 820–842; Bakewell; Martíre 26).

This application of Castilian principles of justice and municipal government aspired to replace the model inherited from the Inca and utilized by Pizarro and subsequent early rulers of Peru such as Pedro de la Gasca, the Marqués de Cañete, the Conde de Nieva, and Lope García de Castro. John Murra described this inherited system as one of indirect government whereby the indigenous leaders —or caciques— were supported by the Inca state in their local authority with the expectation that they meet the obligations assigned to them at pains of being replaced if they failed to do so (*El mundo andino* and *la América precolombiana y la conquista*).

The need to increase Crown revenue and the undoubtedly tragic effects upon the native population have been cited as the definitive, if not sole, cause and effect of Toledo’s reforms. Unfortunately, how and to what degree these policies altered the internal structure of indigenous society remains only partially answered by the current historiography. This paper will use evidence from the decisions of the Audiencia of Charcas along with the letters from that court’s judges —known as

oidores— to illustrate how the relationship between the caciques and judicial administration changed through Toledo's reforms and explore the significance of these changes for indigenous groups.

From this evidence emerges a clear and demonstrable series of court decisions from before Toledo's reforms that demonstrate how the caciques of the province frequently turned to the Audiencia to legitimize their power and ensure the integrity of their caciquedoms. Yet beginning immediately after the implementation of Toledo's reductions in Charcas, the Audiencia record becomes devoid of requests by caciques for the augmentation of their local authority and instead caciques are present almost exclusively for either unmet tribute obligations or requests for special tax or economic privileges. This fundamental change in Audiencia activity was matched by an increasingly venomous criticism of the caciques in the *oidores'* correspondence for their secretive nature and allegedly growing tendency to file frivolous lawsuits. The fact that this change in both tenor and content of the interaction between the Audiencia and caciques developed just after Toledo's reforms suggests that the pressures and institutional changes carried out by Toledo influenced this redefinition of the concept of indigenous leadership.

Various historians have studied legal documents to understand the changes wrought on indigenous groups by the Spanish conquest of Peru. Ana María Presta in her article "Undressing the Coya and Dressing the Indian Woman" and Jeremy Ravi Mumford in "Litigation as Ethnography in Sixteenth-Century Peru" make insightful observations based on legal documents about changing indigenous identity in 16th century Peru.

Other studies have used diverse methodological approaches to explore how the reforms implemented by Viceroy Toledo changed indigenous society. Although considering a different region of Peru, Susan Ramírez's article "The 'Dueño de Indios': Thoughts on the Consequences of the Shifting Bases of Power of the 'Curaca de los Viejos Antiguos' under the Spanish in Sixteenth-Century Peru" chronicles how the role of the *cacique* in indigenous society evolved during the first seventy years of Spanish presence in Peru (also Ramírez, *Provincial Patriarchs*). Ramírez identified significant and compelling changes between the characteristics of pre and post-reduction indigenous leadership specific to the geographical and economic characteristics of this region.

Researching similar themes for the region of Huamanga, which was part of the jurisdiction of the Audiencia of Lima, Steve Stern's excellent work *Peru's Indian Peoples and the Challenge of Spanish Conquest: Huamanga to 1640* acutely chronicles how Toledo's reforms to increase precious metal production unexpectedly gave indigenous leaders within

the Huamanga district new legal tools and frameworks that they learned to use to protect both their own interests and those of their peoples, in turn significantly altering the internal affairs of the region's indigenous groups.

Carolina Jurado has explored changes to indigenous leadership resulting from Toledo's reforms in Charcas by studying the effects of the reductions on the *Macha* people of the *Qharaqhara* federation. By examining how the reductions resulted in the development of new native units and establishment of previously unrecognized indigenous leaders, Jurado asserted that a more hierarchical indigenous social structure was born in which Spanish values and "world-view" asserted influence on the daily life and identify of indigenous groups.

Ward Stavig has written several excellent articles on indigenous identity in early Peru which address changes in the relationship between indigenous groups and the colonial legal system, and the effects these changes had upon the internal functioning of native groups. "Ambiguous Visions: Nature, Law, and Culture in Indigenous-Spanish Land Relations in Colonial Peru" considers the relationship between indigenous groups and colonial justice across the nearly three centuries of Spanish presence in a specific region of Peru. This article specifically asserted that Toledo's reductions altered both indigenous identity and the characteristics of native leadership. In "Continuing the Bleeding of these Pueblos will Shortly Make Them Cadavers," Stavig explored the interaction between indigenous society and the colonial administration in another specific region —Canas and Canchis. He argued that while Toledo's reductions were destructive to indigenous populations of this region, these groups came to embrace their new villages as an institutional tool to legally mitigate the disadvantages of their colonial situation.

The scholars cited above have given detailed and creative examinations of the effects of Toledo's reductions on very specific areas of Peru. This study has the broader but complementary goal of trying to extract regional conclusions from a multitude of cases considered by the Audiencia of Charcas over several decades. Charting the changing role of the *cacique* before the Audiencia during this period explicitly shows a fascinating shift in the method of government from one —inherited from the Inca— of begrudging cooperation between *oidores* and *caciques*, to one in which indigenous groups instead used the colonial administration and Audiencia as an opportunistic forum to contest and win economic resources.

Distrust and Mutual Necessity between the Oidores and the Caciques

From the Audiencia of Charcas' foundation in 1561, the *oidores* frequently voiced suspicion of the caciques. In addition to numerous references throughout the official correspondence to the "tyranny" of the indigenous chiefs, in their famous treatises on colonial law both Juan de Solórzano y Pereira and Juan de Matienzo included sections on the caciques' alleged misuse of their authority.

The *oidores* made these allegations because it appeared to them that tribal structures provided individual natives no protection for their property or persons against the apparently arbitrary will of their caciques (Matienzo 28 Nov. 1567; Matienzo 21 Jan. 1573; Ramírez de Quiñones et al., 2 Nov. 1566). These repeated concerns over the apparently arbitrary authority of the caciques over the resources of their tribes would resurface and eventually be used by Toledo to justify his ambitious reform program.

Nevertheless, in the early years of its existence the Audiencia took little systematic action to undermine the caciques, largely because the *oidores* recognized the overwhelming importance of a cooperating indigenous leadership to a successful colonial administration. Even the *oidor* Matienzo —perhaps the caciques' harshest critic— in a December 23, 1578, letter to the Crown about the principal *cacique* in Potosí, Juan Colqueguarache, wrote:

"lo puedo afirmar como testigo de vista que sin el los yndios se yrían y no se haría nada por que le tienen en mucho y le obedescen todos."

"I can affirm as an eyewitness that without him the Indians would leave and not do anything because they esteem him greatly and all obey him."

As indicated above, the intimate relationship between the caciques and the Audiencia consisted largely in the administration of the *repartimiento* system: the assignment of laborers by the Audiencia whose service was enforced by the caciques. The Audiencia received the mandate to implement and regulate this system in article 73 of the ordinances (King Phillip II, 4 Oct. 1563). Entries to the court record throughout the period demonstrate the Audiencia exercising its power to distribute native workers for an enormous variety of tasks from eighty for carrying munitions, an unspecified number to work the Porco mines, twelve for the service of a certain Spaniard, one hundred needed to

repair bridges, or an unspecified number to help collect firewood (1564/29; 1564/32; 1565/30; 1565/72; 1566/10; 1575/56).¹ So important was this institution to the conservation of the colony that the *oidores* writing collectively on November 2, 1566 asserted:

“que se alquilen yndios y sin esto no se podrá ningun pueblo conservar.” “that they lease Indians and without this no settlement can be sustained.”

In addition to providing labor, one of the most important of the *caciques'* responsibilities was the collection of tribute from their community and its delivery to the relevant royal officials. In September of 1576 the *oidor* Armendáriz explained:

“aunque el corregidor fuese muy perfeto no puede hazer nada en lo de la cobranza de la tasa sino por mano de los caciques [...] y la causa desto es porque cada corregimiento tiene de distrito a sesenta leguas y a ciento y mas y los pueblos muy apartados y son tierras casi ynacesibles por los rios cuestras y otras dificultades [...].” “although the *corregidor* be very perfect he cannot do anything in the collection of tribute without the hand of the *caciques* [...] and the reason for this is because each *corregimiento* has a district of sixty leagues and one hundred and more and very remote villages and they are lands almost inaccessible due to the steep rivers and other difficulties [...].”

The indispensable role of the *cacique* in collecting tribute and providing the necessary manpower during the earliest years of Spanish settlement in Charcas led the Crown to advocate the protection of the traditional prerogatives of *caciques* as defined under the Inca state. A letter from the Crown dated August 16, 1563 described how:

“ [...] se an desmenbrado del dominio de casi todos los caciques muchos yndios en que se ha hecho gran agrauio a los señores naturales y porque es [...] they have dismembered from the control of the *caciques* many Indians which has done great harm to the natural lords and because it is best that

¹ All Audiencia records considered come from a cooperative publication of the Bolivian Supreme Court and the Spanish Embassy to Bolivia. For clarity, they are referenced by year followed by the sequential hearing number presented in the record.

bien que esto se remedie y no se hagan y sean restituidos los señores naturales y caciques en sus yndios segun antes los tenian estareis adbertido que todas las veces que los tales yndios bacaren se buelvan al dominio de los caciques naturales dellos [...]."

this be remedied and not done and that the natural lords and caciques be returned their Indians in the manner that they before had them you all will be warned that every time that these Indians leave they should be returned to the control of their natural caciques [...]."

To carry out this policy objective the Crown promulgated article 72 of the Ordinances giving the Audiencia —instead of the *corregidores* or any other judge— the sole ability to legitimize the authority of or replace caciques (King Phillip II, 4 Oct. 1563). The caciques' importance in providing tribute payment and laborers combined with the Audiencia's authority to legitimize these caciques in their office resulted in an initially frequent exchange between the caciques and the *oidores* regarding the legitimacy of the "natural lords."

Caciques Petitioning the Audiencia for Legitimacy and Caciquedom Coherence

The first example of such an exchange was a December 1563 suit brought by Calizaya, the *cacique* of Carangas, who requested that the Audiencia order his community, which was split up between several *encomenderos*, to obey him as *cacique* (1563/31). In a case that began in mid-July 1566, Don Juan Yquico and Don Hernando Ocoa contested the *cacicazgo* of Camata and submitted their dispute to be considered by the Audiencia (1566/52). Later, on February 27, 1567, Bernabé Cayo, who was still a minor, presented his claim before the Audiencia to inherit the *cacicazgo* of his father, for which the Audiencia instructed that a regent be appointed until the time of his majority (1567/11).

Similar requests continued throughout the 1560s. On September 1, 1567, Don Juan Cabaña presented a request for the *cacicazgo* and livestock of the "Pauri o Paria" peoples (1567/49). Later on October 20, 1567, the Palomino Indians submitted a petition to the Audiencia regarding who should be their *cacique* (1567/61). On February 9 and August 2, 1568, Don Pedro Callapaña and Don Alonso Chunchu submitted competing claims for *cacicazgo* to the Audiencia (1568/8; 1568/42). A related suit was filed on May 17, 1568 when the *cacique* of Caquingora

requested that the Audiencia order his Indians to obey him as *cacique* (1568/29). On January 18, 1571, Don García de Totorá also requested that his subjects obey him as *cacique* (1571/3).

The Audiencia hearing on July 15, 1574 marked the beginning of a case that would span several years and include nearly a half-dozen hearings. This case was between Joan Ocha Condori who had been declared by the Audiencia to be the rightful *cacique* of Pucara of the partiality Urinsaia, which conflicted with a different decision by the Viceroy naming Don Joan Layme Guancato to the same position (1574/32; 1574/55; 1575/25; 1575/54; 1575/60; 1576/81). Even while this suit—the most voluminous of the Audiencia’s considerations of *cacicazgos*—continued, several other requests were made before the Audiencia over contested indigenous leadership. On May 2, 1575, Don Andrés presented a suit regarding the *cacicazgo* of Guata (1575/22). On May 30, 1575, Don Pedro Sacama presented a similar petition over who should be considered *cacique* of a certain *ayllu* (1575/28). While the *acuerdos* give generally sparse information on how these suits were settled, these entries are important because they demonstrate that during the first fifteen years of the Audiencia’s existence caciques frequently turned to the high court in order to secure their legitimacy before their communities and against potential rivals in power.

In addition to concerns over internal legitimacy, the growing society of Spanish settlers presented another challenge to the caciques’ traditional authority. The flood of ambitious immigrants from Iberia quickly organized trade networks, commercial agriculture, and other possible sources of employment, such as *obrajes* (King Phillip II, 16 Aug. 1563; Ramírez de Quiñones et al., 24 Dec. 1563; Ramírez de Quiñones et al., 2 Nov. 1566).

These budding economic endeavors offered dissatisfied natives with an immediate alternative to their caciques and native lifestyle. In a collective letter from November 2, 1566, the *oidores* wrote:

“en cada cibdad de españoles tienen sus casas y rancherías [...] y si sus caciques les dexasen en su libertad no abría yndio que no quisiese estar en potosi ganando su vida o en las ciudades de españoles ganando su jornal [...].”

“in each city of Spaniards they have their houses and *rancherías* [...] and if their caciques leave them to their liberty there would not be an Indian who would not want to be in Potosí earning his living or in the cities of Spaniards earning his daily wage [...].”

Writing two years earlier, the *fiscal* Rabanal also discussed this internal migration and its effects on the King's tribute (20 Dec. 1564).

Related to the Audiencia's confirmation of the authority of caciques, in the early years of the high court's existence many caciques turned to the *oidores* to help maintain the challenged integrity of their *cacicazgos* by requesting authorization to collect fled members. For example, on September 26, 1569, the *cacique* of Cabana requested the Audiencia emit a provision to support a previous ruling by the Governor giving this *cacique* permission to recollect his missing community members (1569/36). Another 1569 petition, brought by the *cacique* of Pocona, requested the power to collect community members, to which the *oidores* did not issue a specific order but instead confirmed the caciques' customary power to pursue run away vassals (1569/42). The *oidores* responded identically to similar requests made at the same hearing by the Colquemarca, Guainamaqui, and Tarabuco peoples (1569/42). The Colquemarca and Andamarca made similar requests on December 1, 1569 (1569/47).

On July 17, 1570, the Cala Cala people requested that individuals who had fled their village to go to Chaquí be allowed to return (1570/17). On July 21, 1571, Diego Ximénez petitioned on behalf of the caciques of Asilo that they be given a provision to collect their people (1571/41). At the next recorded Audiencia hearing, the *cacique* of Acequicali Colagua requested a similar authorization to collect his people (1571/42). The Pomata from Chucuito asked the same on October 24, 1569, for those who left the native structure due to land sterility (1569/41; 1571/41). As new external opportunities threatened the demographic integrity of native groups, caciques frequently turned to the Audiencia to support their efforts at conserving their communities.

The functional reciprocal construct of tribute collection and labor purveyance in exchange for confirmation of cacical legitimacy and authorizations to collect dissipating indigenous populations closely followed the inherited Inca model of government (Murra 2002, 47). While these relationships clearly exhibited a degree of cooperation and reciprocity, it is unrealistic to conceptualize these interactions as universally understood by caciques to be a conscious and voluntary partnership between themselves and the *oidores*. Nevertheless, the above series of cases does in fact demonstrate that diverse caciques from across the Audiencia district of Charcas believed it was useful to approach the Spanish Crown's highest regional court as a key power broker in their internal disputes regarding the leadership and constituency of their political groups.

Despite the apparent commonality of these reciprocal relationships, throughout the 1560s both *oidores* and other royal officials sought ways of limiting the autonomy of local caciques within a legal framework that would be more intuitive for Castilian jurists to understand, and thereby more easily managed to maximize the tribute extracted from indigenous populations (Matienzo, 18 Oct. 1573). In response to such suggestions, the Crown commented on August 16, 1563 that:

“que sera bien que por comarcas entre los yndios houiese dellos alcaldes los quales cada año proueyesen el audiencia o los coregidores por estar lexos de essa audiencia y que los tales alcaldes conociesen de cosas menudas de entre los mesmos yndios y que pudiesen así mismo conocer y castigar entrellos.”

“it would be good that by district that amongst the Indians there would be *alcaldes* who would be selected each year by the Audiencia or the *corregidores* when being far from that Audiencia and that these *alcaldes* see to common issues among these Indians and that they be able in such capacity consider and punish amongst them.”

The idea to break open the political and juridical structure of the *cacicazgo* and appoint the recognizable Castilian figure of the *alcalde* represented a significant but subsequently underappreciated step in the relationship between Andean and Castilian traditions. While Peter Bakewell assiduously noted that Lope García de Castro began expanding indigenous access to Spanish justice in the vein suggested by the above letter before Toledo’s arrival, it is without doubt that Toledo sought to apply Spanish regulated justice more deeply and widely than ever before. A May 6, 1575 note from Audiencia President Ramírez explained that Toledo followed the King’s instructions in assigning indigenous judges, which Ramírez embraced since

“aya pocos pleitos entre indios [...]”

“so that there are few lawsuits amongst Indians [...]”

Not only did Toledo attempt to expand the application of Spanish regulated justice, he also sought to recreate the quintessential municipal political structure of the Castilian town. In implementing Toledo’s reforms, Matienzo wrote on January 21, 1573:

"se juntaron todos los indios en dicho sitio e hizieron casas de paja en que viuiessen entretanto que acababan el edificio, nombre deos alcaldes y quatro regidores y vn alguazil y vn escriuano de concejo que hera indio ladino y sabe bien leer y escreuir [...]."

"all of the Indians were brought together in the said spot and they made houses of straw in which they would live until they finish the building, I named two *alcaldes* and four *regidores* and one *alguazil* and one *escribano* of the council who was a ladino Indian and he knows how to read and write well [...]."

Beyond simply using Castilian names for municipal officials, a subsequent letter from all the Audiencia's *oidores* detailed how Toledo assigned indigenous communities certain ordinances and a series of higher-level Spanish judges to oversee the decisions of the newly-appointed indigenous officials. A May 16, 1575, collective letter from all the *oidores* explained how:

"ales dexado hordenanzas para que viuan en policia y señalado dellos mismos alcaldes y regidores y otros oficiales de concejo y dexado en sus mesmas tierras juezes particulares españoles para que alli haya quien les haga justicia sin salir de sus tierras [...]."

"they were left ordinances in order that they live politically and amongst them were named *alcaldes* and *regidores* and other officials of council and left in their own territory individual Spanish judges in order that they have there someone to provide them justice without leaving their lands [...]."

While the titles of *alcalde*, *regidor*, and *escribano* naturally draw the attention of historians looking for Castilian legal legacies in Toledo's reforms, the implementation of a universal fixed per-head tribute obligation represented another major change from the previous Inca notion of tribute, defined as communal cultivation of certain assigned fields for the Inca (Murra 1998). This change meant that communal lands went from being those cultivated for the benefit of the Inca and his state religion to lands that were instead open to the discretionary purposes of the *cacique*.

Change in Caseload and *Cacique–Oidor* Relationships Following Toledo's Reforms

The sum effect of all these reforms was a fundamental transformation in how indigenous leadership interacted with the Audiencia. Whereas previously the *oidores* mentioned the scarcity of indigenous lawsuits, following the expansion of Spanish institutions into the indigenous municipality and the broadened authority of the *cacique* over communal lands, in December 1586 the Audiencia President Cepeda described a novel and unexpected result:

“Y ninguna cosa tanto inquieta a los yndios con pleitos y les haze seguir las audiencias como es la pretension de las tierras que ellos dizen ser suyas siendo de derecho de Vuestra Magestad por aver sido del inga y de las mamaconas religiosas y mancebos del mismo [...] porque aun lo que ellos poseyan y sembravan para su sustento no lo tenian en propiedad ni los rutos que cojian gocavan por entero porque solo les dexaban dellos lo que a los gobernadores de los ingas les parecia haver menester para se sustentar hasta otra cossecha conforme a la cassa y ffamilia que cada uno tenia [...]”

“And there is nothing that so bothers the Indians with lawsuits and forcing them to pursue the Audiencias as is the claims for land that they say is theirs being legally of Your Majesty because they had belonged to the Inca and the religious women and youth of this same Inca [...] because even though they possessed and sowed for their sustenance they did not hold them in property nor the *rutos* that they collected did they enjoy entirely because they only left for themselves that which the Inca governors thought necessary for their sustenance until another harvest in accordance with the house and family that each one had [...]”

While only one fascinating example of the Audiencia addressing the conflict between pre-conquest traditions and post-conquest realities (1568/65; 1566/56; 1568/27; 1568/18; 1568/44), this quote encapsulates how tribute and political reforms based on a Castilian model inspired the indigenous use of the Audiencia in a new way that eventually became definitive for the rest of the colonial period. Specifically, the above assertion shows how Spanish notions of property and revisions of the legal structure of indigenous communities by Toledo's lieutenants resulted in new indigenous uses for the legal system that employed more nuanced and sophisticated legal assertions than their earlier petitions. In

spite of the fact that much of Toledo's reforms impoverished indigenous groups through heightened taxes or labor conscription —especially the *mita*— lawsuits of the kind referenced above, which frequently leveraged Toledo's newly-imposed forms of community and property, surprisingly identified and claimed expansive new legal grounds on which indigenous communities could contest their interests.

Concurrent to the development of this novel legal avenue for economic gain, as more indigenous people fled the heavier tribute obligations and dreaded *mita*, the fiscal pressure on those that remained and on the *cacique* responsible for coordinating their tribute compliance only increased. This is reflected by a corresponding increase in cases involving the physical imprisonment of caciques during the post-reduction period. The first mention in the court record of a *cacique* imprisoned for unmet tribute obligations was in 1568 over the reported imprisonment of the chief of the Chucuito (1568/12). But the preponderance of such references in the Audiencia record falls in the years surrounding Toledo's reductions. This began with a March 26, 1571 hearing considering the imprisonment of the *cacique* of the Incas for unpaid tribute (1571/19). Shortly afterwards, the record refers to the imprisonment of the *cacique* of the Chicha along with a discussion of how this tribe's tribute obligations might have been reformed to become more manageable (1571/38).

The references to the imprisonment of caciques for unmet tribute continued uninterrupted through the remaining years of the second volume of the court record. Hearings during 1571 and 1572 considered the imprisonment of Pedro Llanqui, *cacique* of the Uros, who was eventually released because the royal officials could not collect tribute nor administer his territories without his assistance (1571/41; 1572/46). On July 30, 1571 the *oidores* explored whether the *cacique* of Pugna should be imprisoned (1571/42). In August and September of 1575 the Audiencia considered the possible release of the imprisoned caciques of *Paria* (1575/50; 1575/56). Finally, in November 1575 Pedro Alata, the imprisoned *cacique* of the *Conde* requested that the Audiencia order that he be released and have his unpaid tribute be amortized (1575/70).

Simultaneous to this tremendous growth in the physical punishment of caciques during and after Toledo's reforms, is an equally abrupt termination of any recorded cases of caciques requesting confirmation for their positions of local leadership. For example, in the record book recording the decisions and hearings of the years from 1576 until 1587 there was only a single case regarding the confirmation of the right of *cacicazgo* (1585/74). Following the same trend, during this period there is

no record of requests by native populations to recollect fled members despite the well-documented indigenous depopulation due to disease, reduced fertility, and flight. Instead, when not addressing imprisonment for unpaid tribute, the office and position of the *cacique* was only referenced in the Audiencia record over requests for special tax exemptions traditionally associated with positions of indigenous leadership (1576/24; 1576/92; 1576/95).

The increase in cases related to the imprisonment of caciques alongside the simultaneous fall off in requests for legitimization of indigenous leadership suggests a breakdown in the form of colonial administration previously practiced by Spanish bureaucrats and indigenous leaders. The imprisonment of caciques clearly reflects an increasingly robust and assertive colonial governing apparatus resulting from Toledo's reforms. However, this does not alone account for why indigenous leadership simultaneously turned away from the Spanish as frequent arbiters in questions of disputed indigenous leadership. One possibility is that Toledo's substantial increases in both material and labor tribute obligations—combined with the more stringent enforcement mechanisms—may have simply made the job of *cacique* far less appealing.

Yet these factors considered in light of the greater frequency of indigenous lawsuits asserting control over contested property together strongly suggest that following Toledo's reforms, disputes over the internal legitimacy of indigenous leaders may have been worked out through alternative channels that required less input from the Audiencia. Namely, a *cacique's* ability to increase communal resources through shrewd use of the newly expanded colonial legal system could edify his internal legitimacy far more than could the *oidores'* official public approval.

While the sudden end to the previously characteristic types of lawsuits that caciques brought before the Audiencia is definitive, one cannot on the basis of this evidence alone rule out the possibility that the caciques did not petition either lower Spanish judges—known as *corregidores*—or the viceroy himself over such questions. Indeed, one of the most prolific debates—present throughout the official correspondence—of the late sixteenth century colonial administration in Peru was over the relative authority of the Audiencia and viceroy in certain types of jurisdictions. One of the maxims most often repeated in contemporary documents of the period was that the viceroy was to have primacy in issues of government while the Audiencia should have supreme authority in questions of justice between parties. In the often-ambiguous line between justice and government, the purveyance of

indigenous leadership might easily be considered within the governing authority of the viceroy.

Yet there is good reason to believe that such possible factors do not explain the observed change in caseload. Foremost, if cases related to indigenous leadership and tribal coherence were instead presented before the *corregidores*, we would expect to see evidence of some such cases appealed to the Audiencia. This is because during the second-half of the sixteenth century hundreds of cases previously decided by the *corregidores* were appealed, considered, and recorded in the Audiencia record.

Cases decided by the viceroy were also frequently appealed to the Audiencia, as there were several examples of the Audiencia being petitioned to overturn decisions made by the viceroy (1574/47; 1576/82; 1581/61; 1583/3). Thus if the viceroy had simply replaced the Audiencia as the recipient of the previously characteristic types of cases one would expect to find some evidence of such petitions in the Audiencia record. The fact that in the several hundred cases related to indigenous affairs presented to the Audiencia in the decades following Toledo's reforms there was not a single example of the previously characteristic kinds of petitions brought by caciques, it stands to reason that the nature of the Audiencia—and indeed the colonial administration more generally—changed drastically in the eyes of the indigenous leadership as a result of these reforms.

Furthermore, a letter from the *oidores* Rojo de Carrascal and Bernardino de Albornoz written in April of 1597 demonstrates that the Audiencia continued to strictly guard its prerogatives over indigenous groups and, in so doing, continued to closely scrutinize native legal affairs throughout the district.

"En los pleitos que tocan a yndios y particularmente sobre tierras se han echo y hacen en esta audiencia lo mas sumariamente que puede ser por tener como tenemos presente los inconuenientes que se han seguido y siguen de que los yndios los traigan y esto mismo mandamos que hagan los corregidores y jueces de naturales aduirtiendolos continuamente como han de proceder en causas de yndios, y asi lo haremos adelante goardando el

"In the lawsuits that touch on Indians and particularly those regarding lands the Audiencia has and continues to do them as summarily as possible as a result of having present as we do the inconveniences that have followed and follow from those Indians that bring them and for this same reason we order that the *corregidores* and judges of the natives continuously alerting them how they should proceed in causes related to Indians, and we will

orden que vuestra magestad nos continue doing it like this guarding the manda.” order that Your Majesty has ordered for us.”

Beyond the observed changes in Audiencia caseload, an examination of the correspondence between the *oidores* and the Crown for the decades following Toledo’s reforms reveals a perception amongst the judges of fundamental changes in the interaction between the indigenous leadership and the colonial administration. The *oidores’* criticisms had a double thrust. First, they claimed that due to the expanded access to Spanish justice that resulted from Toledo’s reforms—and the corresponding growth in indigenous understanding of colonial law—the natives increasingly saw the justice system as a kind of lottery to be played at every possible opportunity since it always afforded the possibility for material gain. Secondly, the *oidores* claimed this growth in legal activity was funded through coerced and secret tribal taxes collected by the caciques through a widespread and tyrannical abuse of their authority.

The *fiscal* Ruano Téllez, made legally responsible for the well being of the indigenous populations in the Audiencia’s foundational ordinances, wrote in March of 1588 of the growing indigenous interest in lawsuits:

<p>“estos yndios son muy amigos de pleitos [...] echan derramas entre sus comunidades para gastar tiempo y andar perdidos en cosas ympertinentes que cargan sobre los pobres y biudas y otras miserables personas [...].”</p>	<p>“these Indians are great friends of lawsuits [...] they demand fees from their communities in order to waste time and wander in impertinent things that weigh upon the poor, widows and other miserable people [...].”</p>
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On December 9, 1586, the Audiencia President Cepeda wrote:

<p>“ay tan grandes pleitos y tan dudossos por la facilidad con que los yndios se perjuran que los tengo por inacavables [...].”</p>	<p>“there are such big lawsuits and so doubtful for the ease with which the Indians perjure themselves that I have them for unfinishable [...].”</p>
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In a collective letter to the Crown written on February 25, 1589, the *oidores* asserted that

"[...] la visita del oydor no es necesaria e antes es grauosa para los yndios porque como de su natural ynclinacion son faciles amigos de nouedades [...] con ocasion de la visita buscando y leuandanto pleitos donde no los ay ni ellos se acordaron dellos sino obiera la visita handan alborotados asi unos pueblos con otros como los de un pueblo entre si [...]."

"[...] the *oidor's* visit is not necessary but rather harmful to the Indians because as their natural inclination is to be quick friends of novelty [...] with the occasion of the visit searching for and bringing up lawsuits where there are none and not even they remember them except when the visit occurs they go about rowdily with some villages against others as much as those of one village among themselves [...]."

The Audiencia President Almendáriz attributed this apparently novel tendency towards excessive lawsuits to the very reforms Toledo implemented in order to make the indigenous population more easily governed and taxed. Almendáriz wrote on September 25, 1576:

"a los yndios no tienen mayores enemigos que estos procuradores y abogados y a los protectores que en toda la tierra a nombrado el virey porque no solamente no osan pedir nada contra las tasas y ordenanzas del uirey pero tampoco contra los agravios que les hacen los corregidores a los yndios y los demás ministros porque todos son a una contra los yndios y todos lo roban [...] estos que se llaman sus defensores y no lo son sino ofensores [...]."

"...the Indians do not have worse enemies than these solicitors and lawyers and the protectors who throughout all the land the Viceroy named because not only do they not dare to ask anything against the tribute assignments and ordenances of the Viceroy but neither against the wrongs that the *corregidores* do to the Indians and the other ministers because all are unified against the Indians and all rob them [...] those who call themselves their defenders are nothing of the sort but rather their offenders [...]."

The *fiscal* Ruano Téllez expressed similar doubts in a letter written on February 20, 1585:

"tener los yndios en aquel juzgado ocho o nueve personas que se aprovechan de su sudor y trabajo porque como tienen tanta necesidad

"for the Indians to have in that tribunal eight or nine people who take advantage of their sweat and work because of them some have such

dellos unos por temores otros por necessity from fear and other from
amenazas [...].” threats [...].”

Relating this to Toledo’s reforms, the *oidores* perceived that many caciques were taking advantage of this flowering of legal activity in order to assert their interests in new ways that the *oidores* frequently believed to be secretive and improper. In the decade following Toledo’s reforms, such perceptions resulted in a swell of vituperative criticism by the *oidores* of the caciques that was much harsher than anything present in their earlier correspondence.

The royal inspector Antonio Gutiérrez de Ulloa, writing in March of 1597 on the caciques’ propensity to mislead Spanish administrators on issues of taxation, claimed:

<p>“siendo verdad que los casiques saben bien adonde estan todos sus yndios y que no se ausentan sin su voluntad y que cobran de ellos la tasa doblada y otros tributos muy excesivos sufriendolo todo los yndios porque los escusan de venir a estas minas y de otros servicios.”</p>	<p>“it being true that the caciques know well where all their Indians are and that they do not absent themselves without his volition and that they collect double the tribute from them and other extremely excessive tributes with the Indians suffering everything because [the caciques] excuse them from coming to these mines and other services.”</p>
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On February 20, 1585, Cepeda wrote of this same phenomenon

<p>“que se haga aberiguacion con rigor sobre los topos de chacaras que an senbrado los caciques a costa de los yndios fuera de lo mandado por la tassa y el fruto que an coidado se de a pobres [...].”</p>	<p>“there should be done a rigorous investigation about the units of area of their farms that the caciques have sowed at the cost of the Indians beyond that ordered by the tribute agreement and the produce that they have collected should be given to the poor [...].”</p>
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In a letter, dated March 12, 1593, Cepeda laid out what would be perhaps his most comprehensive criticism of the new role of the cacique in the colony:

"[...] los caciques porque ellos mas que otros son los que pelean y desuellan a los pobres indios con imposiciones, derramas [...] sin que los perseguidos indios osen hablar ni pedir su justicia porque como veen quel cacique gouernador, que los vende persigue y roba siempre se queda gouernador y juez sin dar cuenta ni rresidencia de las maldades y robos y fuerzas que cometen [...] mueren y cañan sin hallar quien les oyga y haga justicia si no es esta real audiencia a los que a ella vienen a pedirla que son bien pocos y por ello quedan perpetuos enemigos de sus caciques que en mill ocasiones que tienen se satisfacen, y vengan de los pobres."

"[...] the caciques because they more than others are those that fight with and skin the poor Indians with impositions, collections [...] without which the persecuted Indians dare speak nor ask their justice because as they see that the governing *cacique*, who sells them persecutes and robs them always remains governor and judge without public realization nor *residencia* of the evils and robberies and coercion that they commit [...] they die and *cañan* without finding anyone who will listen to them and give them justice if it is not this Royal Audiencia to those who come to ask it who are very few, and for that they remain perpetual enemies of their caciques who in the thousand occasions that they have they satisfy themselves and take revenge from the poor."

Conclusion

From the comments of the *oidores* and other royal officials, it is clear that the post-reduction period consisted of a marked transformation in the tenor of cacique-Audiencia relations. Toledo's attempts to apply Castilian style administration more closely to indigenous populations not only seems to have not functioned as expected, but even provided a tool for the caciques to reassert their local authority by giving them a forum to contest, protect, and at times acquire agricultural land and other economic resources. But such growth in the use of the Audiencia as a forum to contest resources is matched by an abrupt halt to requests for the Audiencia to legitimize the internal authority of the cacique or obedience of his community members. Along with this fall-off in petitions over internal indigenous political affairs—and perhaps because of it—the *oidores* increasingly perceived what was in fact a definitive change in Audiencia-cacique relations. While they bitterly described such changes as a propensity towards secrecy, extreme tyranny, and legal frivolity, such changes in fact reflected a nascent

tendency for caciques to manage the internal affairs of their communal lands with scant recourse to Audiencia justice.

This evidence taken together with the variation in the kinds of cases presented by caciques before the Audiencia demonstrates a clear transition from a culture of tenuous cooperation between the Audiencia and the caciques to one in which the caciques more autonomously acquired and legitimized their own power. This suggests they perceived the Audiencia even less as a potentially respected arbiter in cases of disputed leadership than as a resource that Stavig, Hobsbawm, and Stern have described as a “tool of the weak” to mitigate their subservient situation (Stavig, *Ambiguous Visions* 85–88; Hobsbawm).

The emergence of this new model of interaction between the Audiencia of Charcas and the caciques of its jurisdiction in the aftermath of Toledo’s reforms gives new information on how the legal synergy that occurred in Spain’s three-century administration of the Americas actually played out. This functional body of law consisted of a confusing mix of *ius commune*, Castilian legal traditions, statutory law created specifically for the Americas, indigenous tradition, and many individual *reales cédulas* promulgated for thousands of specific situations. Many historians, including Eduardo Martiré, have emphasized that Iberian law did not wholly replace indigenous customs, but that native traditions not explicitly contradictory to fundamental peninsular values were left in force (Martiré 25; Mariluz Urquijo 24–32; Vassberg 120). Francisco Cuenca Boy reminds us in “Yanaconazgo y derecho romano: ¿una conjunción extravagante?” that Spanish jurists in colonial Latin America often gave legal force to indigenous traditions by adopting a label from Castilian or Roman law to describe previously-existing Andean practices.

In the case of the Audiencia of Charcas in the years surrounding Toledo’s reductions, we clearly see these characteristics: the imposition of Castilian forms of municipal organization and tribute payment alongside a conservation of the importance of the cacique in managing the affairs of their communal lands. However, the result of these changes and continuities is not a simple mixture of Castilian and Andean traditions but rather is the emergence of a characteristically new form of interaction between the indigenous leadership and the colonial state.

Contextualizing regional investigations by Ramírez, Stavig, and Stern, we see that while Toledo’s reforms in Charcas were tremendously destructive to native society, the court record also indicates they sparked a new model of indigenous leadership. Although the Audiencia, *corregidores* and other royal officials continued to exercise their ability to remove and replace caciques as circumstances and unpaid tribute demanded, the caciques of the province turned away from the decree of

the Audiencia as a strong justification for leadership and assurance of the coherence of their political groups. To the consternation of the *oidores*, indigenous leaders instead came to interact with the Audiencia in a newly assertive and largely economically acquisitive manner, which when done successfully likely gave considerable justification for their political leadership. These results of Toledo's sixteenth century reforms help elucidate the origins of long-lasting stereotypes in Charcas of tyrannical caciques using both internal coercion and Audiencia justice to acquire and maintain power and influence.

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² These letters were initially consulted in Levillier's well-known compilation. For some letters further insight was pursued by seeking original copies through the Archivo General de Indias. Such cases are identified by the archival reference being listed below the compilation entry.

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