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**COLONIAL POLICY AND THE
CONSTRUCTION OF THE COMMONS:
AN INTRODUCTION**

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The main contention of this collection of essays is that the Caribbean and Latin American cases have much to offer general debate on common property. Scholars of the Caribbean and Latin America have written about customary tenures and the notions of community, family, ethnicity and kin that seem to revolve around them. But there has been little discussion across these two areas of the similarities and differences in customary tenure patterns. Contrasting Latin America with the Caribbean leads to productive insights about the relationship between different forms of capitalist colonization and accumulation, different state practices, and different understandings of land and its connections to identity.

For instance, scholars of Mesoamerica have noted a connection between communal tenure and notions of "corporate" identity.¹ Meanwhile, scholars of the Caribbean have noted connections between communal tenure and notions of kin, family, and individualism.² How can

¹ Eric Wolf, "Closed Corporate Peasant Communities in Mesoamerica and Central Java," *Southwestern Journal of Anthropology* 13, no. 1 (1957): 1-18; Carol Smith, "Introduction: Social Relations in Guatemala over Time and Space," in Carol Smith, ed., *Guatemalan Indians and the State: 1540-1988* (Austin: University of Texas Press, 1990), 1-32; David McCreery, "State Power, Indigenous Communities, and Land in Nineteenth-century Guatemala, 1820-1920," in Smith, *Guatemalan Indians*, 96-115.

² Edith Clarke, *My Mother Who Fathered Me: A Study of the Family in Three Selected Communities in Jamaica* (London: Allen and Unwin, 1957); Jean Besson, "Symbolic Aspects of Land in the Caribbean: The Tenure and Transmission of Land Rights among Caribbean Peasantries," in Malcolm Cross

looking at the histories of these tenurial traditions, their constructions by different forms of capitalist expansion, and their articulations to different state practices and policies, help explain why some Mesoamerican peoples might think of themselves as members of corporate groups while some Caribbean peoples might think of themselves as members of families and local, non-corporate communities?

Beginning with Garrett Hardin's influential essay, "The Tragedy of the Commons,"³ intellectuals and policy makers from very diverse backgrounds have argued that common property is wasteful, unproductive, and non-sustainable. Economists and psychologists have attempted to demonstrate that Hardin's "tragedy" can be replicated in models and experiments about competition over common resources.⁴ A number of anthropologists and historians have rightly criticized Hardin and his followers for neglecting the social institutions that regulate access to common resources.⁵ But neither Hardin nor his critics have

and Arnaud Marks, eds., *Peasants, Plantations and Rural Communities in the Caribbean* (Guilford: University of Surrey and Leiden: Royal Institute of Linguistics and Anthropology, 1979), 86–116; Charles Carnegie, "Is Family Land an Institution?" in Charles Carnegie, ed., *Afro-Caribbean Villages in Historical Perspective* (Kingston: African-Caribbean Institute of Jamaica, 1987), ACIJ Research Review No. 2, 83–99; Michaeline Crichlow, "An Alternative Approach to Family Land Tenure in the Anglophone Caribbean: The Case of St. Lucia," *New West Indian Guide* 68, nos. 1 & 2 (1994): 77–99.

³ *Science* 162 (1968): 1243–1248.

⁴ See, for example, M. Ito, T. Saijo, and M. Une, "The Tragedy of the Commons Revisited: Identifying Behavioral Principles," *Journal of Economic Behavior and Organization* 28 (1995): 311–335; Anatol Rapoport, "Experiments with n-Person Social Traps II: The Tragedy of the Commons," *Journal of Conflict Resolution* 32 (1988): 473–88; Yung-mei Tsai, "Social Conflict and Social Cooperation: Simulating the 'Tragedy of the Commons,'" *Simulation and Gaming* 24, (1993): 356–362; Julian Edney and Christopher Harper, "The Effects of Information in a Resource Management Problem: A Social Trap Analog," *Human Ecology* 6 (1978): 387–95; Julian Edney and Paul Bell, "The Commons Dilemma: Comparing Altruism, the Golden Rule, Perfect Equality of Outcomes, and Territoriality," *Social Science Journal* 20, no. 4 (1983): 23–33; Julian Edney and Paul Bell, "Sharing Scarce Resources: Group-orientation, External Disaster, and Stealing in a Simulated Commons," *Small Group Behavior* 15, no. 1 (1984): 87–108.

⁵ Bonnie McCay and Louise Fortmann, "Voices from the Commons," *Cultural Survival Quarterly* 20, no. 1, (1996): 24–25; F. Berkes, D. Feeny, B. J. McCay, and J. M. Acheson, "The Benefits of the Commons," *Nature* 340

addressed two fundamental problems in the conceptualization of common property.

The first stems from the observation that "common property" as a concept only makes sense in terms of "private property." First, conceptually and historically, common property is a residual of private property. The concept of common property relies on a western notion of property devised in the sixteenth and seventeenth centuries to deal with enclosed lands and the emergence of individually-held, "private" properties. People held private property as a privilege; common property, by default, became that which was not "privately" held, and which people without privileges could enjoy. Second, thus, the two concepts are relationally defined. Common property is that which is not private. Put more programmatically, then, common property, although often understood to be the opposite of private property, is constructed from the very same discursive and historical practices that create private property.

The second stems from a contradiction in notions of rights implied in discussions of common property. Common property supposedly entails certain rights—often usufruct, grazing, agricultural, and/or access rights—that groups of people hold simultaneously and in common. Yet, the concept of "rights" as developed in liberal law tends to individualize persons and reify the objects of property.⁶ Often in discussions of the commons, aggregations of individuals, and not corporate groups or other kinds of collectivities, are taken to be the owners of common property. Common property, thus, often gets reduced to the relationship between different individuals, with presumably conflicting interests, and the land, rendered as an inert object or a resource, over which they fight. In this framework, the social relationships that make up individuals, interests, and the land itself, are removed from view. Metho-

(1989): 91–93; Bonnie McCay and James Acheson, "Human Ecology of the Commons," in B. McCay and J. Acheson, eds., *The Question of the Commons: The Culture and Ecology of Communal Resources* (Tucson: University of Arizona Press, 1987), 1–34; Pauline Peters, "Embedded Systems and Rooted Models: The Grazing Land of Botswana and the Commons Debate," in McCay and Acheson, *Question of the Commons*, 171–94.

⁶ Evgeny Pashukanis, *Law and Marxism* (1929) (Worcester: Pluto Press, 1989); Jane Collier, Bill Maurer, and Liliana Suárez-Navaz, "Sanctioned Identities: Legal Constructions of Modern Personhood," *Identities* 2, nos. 1 & 2 (1995): 1–27.

dological individualism and commodity fetishism enter into analytical approaches to supposedly “anti-” or “pre-” capitalist property regimes.⁷ Psychologists and economists who devise models to test Hardin’s hypothesis all begin from premises of individualism, competition, and scarcity, in spite of the fact that common property supposedly rests on communalism and sharing.

Analysts who begin with the assumptions of methodological individualism or commodity fetishism are not necessarily wrong to do so, however. When methodological individualism works to elucidate people’s interactions with resources, for example, it also tells us something about the history of capitalism in the case at hand. If people are interacting with common lands by treating the lands as resources and understanding themselves as holding certain rights to them, then we need to ask what kinds of rights they understand themselves to be holding, what kinds of things they envision property to be, and what kinds of persons they imagine themselves to be. How are different forms of “the commons” linked to different forms of personhood? And how have these forms of person and property arisen together?

This introductory essay has four goals. The first is to situate the concept of the commons in its historical context. Garrett Hardin’s development of the concept relied on one early nineteenth century political economic theory. I demonstrate in the next section that this theory of political economy was explicitly concerned with the effect of the enclosure of lands in early industrial England on the rural poor. The theory of the commons put forward in the early nineteenth century was also a theory of private property and the inequalities it generates. Hardin and his followers, by taking the “commons problem” to be a universal one faced by all people who share common property resources, misses the specificity and situatedness of the concept of the commons.

The second goal of the essay is to demonstrate that British colonial policies and theories, many stemming from the early nineteenth century political economy debates Hardin drew from, helped to foster the creation of common property in the Caribbean. I show how revisions of Malthusian doctrine, together with new ideas about the purpose of the

⁷Duran Bell, “The Structure of Rights in the Context of Private Property,” *Journal of Socio-Economics* 24 (1995): 607–22; Duran Bell, “On the Nature of Sharing: Beyond the Range of Methodological Individualism,” *Current Anthropology* 36 (1995): 826–30.

colonies, worked to dismantle the old colonial system based on mercantile protections and to construct a new system on the tenets of “free trade.” As they undermined the protections and thus the power of the Caribbean planter class, these new colonial theories also tried to predict the fortunes of Caribbean peoples undergoing the transition from slavery to freedom. I show how new colonial theories, the demise of the planter class, and the rise of free trade imperialism led to the development of Caribbean “family land.”

The third goal is comparative. Through a sketch of Spanish colonial and Mexican national policies toward the indigenous populations of Mesoamerica, I lay the groundwork for a comparison between Caribbean and Latin American common tenure systems. From the 1540s onwards, as peninsular and creole Spaniards vied for influence and power in New Spain, indigenous populations were subjected to various policies and programs regulating their access to land. Colonial projects and indigenous responses to them, coupled with indigenous identities and traditions of landholding, fostered new kinds of corporate constructions of identity and new “customary” forms of land tenure like the *ejido* system. Unlike the efforts of colonials in the Caribbean, those of Mexican elites, both before and after independence in the 1820s, linked land and identity to nation-building. The mid to late nineteenth century witnessed nationalist projects based on liberal principles which attempted to use “science” and free trade to alter the character of Indian “customs.” Reactions against liberalism, on the part of Indians and other nationalists, culminated in the Mexican Revolution and agrarian reform. Early twentieth century nationalism romanticized indigenous peoples and re-invigorated (and transformed) the *ejido* system.

The mix of colonial, nationalist, liberal, and “indianist” policies make *ejidal* lands different in kind from Caribbean family land, with different implications for identity. The final goal of this introduction is to reflect on these differences. Here, I examine the contributions of the essays in this volume to discussions of kinship identities and corporate identities. I conclude with some thoughts on the futures of the commons in a globalizing economy characterized by “neoliberal” free trade policies and neo-traditional ethnicist and nationalist movements.

Common Tenure and Enclosure

The claim that common property is constructed from private property makes most sense when the concepts are viewed historically. The two

concepts came into being in the same moment and around the same set of issues: English landowners' enclosure of lands, which created "private" property for elites and left the remaining, unenclosed land to the "commoners."⁸ Hardin's "tragedy of the commons" thesis misses this crucial context, with serious consequences.

Using the example of common pasture lands provided by the early nineteenth-century Malthusian William Foster Lloyd, Hardin argued that individuals have no incentive not to over-exploit the resources of the common. Each is seeking to "maximize his gain. Explicitly or implicitly [. . .] he asks, 'What is the utility to me of adding one more animal to my herd?'"⁹ In Hardin's conception, the commons is limited. But individuals' desires to maximize their own gains are not. Since "[e]ach man is locked into a system that compels him to increase his herd without limit," "[r]uin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all."¹⁰

Put in his historical context, however, William Foster Lloyd, from whom Hardin derived his common pasture example, was writing of a very specific, very situated sort of "tragedy." Lloyd was concerned, like many of his contemporaries, that industrialization was swelling the ranks of the poor in England. The long history of enclosure, from the time of Sir Thomas More (1516) to John Locke (1688) and beyond, reveals much of the cause. Peasants found their pasture and hunting grounds closed off by large property-holders seeking tracts of land on which to graze sheep to feed wool into the new industrial mills. Elites reserved only a small amount of land for commoners' use:

It was the usual practice with each enclosure to set aside a small cow common for the poor and dispossessed, often on less than choice land. . . . [I]t is not surprising that these so-called commons developed into wretched examples of overgrazing, ill-managed livestock, and general squalor.¹¹

New forms of "criminality," like poaching and trespass, and new

⁸ Bruce Levine, "The Tragedy of the Commons and the Comedy of Community: The Commons in History," *Journal of Community Psychology* 14 (1986): 81-99.

⁹ Hardin, "Tragedy of the Commons," 1244.

¹⁰ *Ibid.*

¹¹ Levine, "Tragedy . . . and the Comedy," 92.

forms of impoverishment, like lack of access to land, were invented over the course of this historical transformation.¹² Bruce Levine observes that Lloyd was not writing about pre-enclosure "common" lands, but about the notion of the commons that emerged after enclosure. Lloyd was "citing a post-enclosure travesty of the commons" or a "tragedy of enclosure."¹³

Garrett Hardin's "tragedy" essay was specifically concerned with the prospect of ecological collapse brought on by overpopulation. He believed that people with access to common resources would have no incentive to reduce their numbers and so would deplete common resources all the more rapidly. William Foster Lloyd was similarly concerned with population. His discussion of the common pasture asks us to imagine the "field for the employment of labour" as if it were a common pasture field.¹⁴ Since every laborer has equal access to the labor market and an equal chance of gaining employment—just as every cowherd has equal access to the common pasture and an equal chance that his cows will find some grass to munch on—individuals do not fear labor market competition from their own children. They do not do so, Lloyd reasoned, because they perceive the "commons" of the labor market to be unlimited. People then favor early marriages, a "present good," over "abstinence," a "future good" the benefit of which they can not adequately perceive.¹⁵

However, it becomes clear from the history of the idea of the commons and its manifestation in post-enclosure England that the "cause" of the tragedy of the commons was "not the addition of people to the land, but the subtraction of land from the people."¹⁶ It is also clear that the participants in Lloyd's labor market "commons" had little else to offer besides their labor. Recognizing their limited options is not the same thing as believing in an unlimited labor market.

¹² Eric Hobsbawm, *Bandits* (1969) (Harmondsworth: Penguin, 1985).

¹³ Levine, "Tragedy . . . and the Comedy," 93.

¹⁴ William Foster Lloyd, "On the Checks to Population" (1833), in G. Hardin and J. Baden, eds., *Managing the Commons* (San Francisco: W. H. Freeman, 1977), 11.

¹⁵ See Richard Romano, "William Foster Lloyd—A Non-Ricardian?" *History of Political Economy* 9, (1977): 427.

¹⁶ A. Roberts, *The Self-Managing Environment* (Totowa, N.J.: Rowman and Littlefield, 1979), 154.

Curiously enough, however, with the changing fortunes of English capitalists—and of professors of political economy at Oxford—new theories of population took hold in England in the late 1840s. These theories did not see overpopulation to be at the root of the poor's plight. Rather, they turned toward the colonies and looked abroad for causes and solutions to the troubles brought on by industry. The colonial context of Lloyd's theories of political economy is another aspect overlooked by Hardin's followers. But it is absolutely central to an understanding of the colonial construction of the commons in the Caribbean.

Colonial Policy and the Caribbean Commons

William Foster Lloyd held the Drummond Chair of Political Economy at Christ Church, Oxford, from 1832 to 1837. His *Two Lectures on the Checks to Population*, the text on which Hardin's "tragedy" thesis rests, was published in 1833. He seems to have had little influence among his peers at Oxford, however, primarily because of contemporaneous challenges to Malthusian doctrines. These challenges have been traced to a "sort of optimism,"¹⁷ a "general change of attitude on population problems which began to be noticeable in the 'thirties."¹⁸ What was the basis for that optimism?

Lloyd wrote in the wake of debates about the entitlements of the poor to "poor relief." Unlike Malthus, who argued that poor laws, by mitigating pressures to reduce breeding, contributed to the population problem and the continued immiseration of the poor, Lloyd argued that poor relief would encourage parents to lengthen the period of their children's dependency on them, and thus to have fewer children. Lloyd's assumptions, however, were quite in line with Malthus's: there are too many poor and not enough jobs for them, so we need to get them to stop reproducing. High population density, especially in the new metropolitan industrial centers, is bad.

Lloyd's successor on the Drummond Chair, who took his seat in 1837 before leaving to become the permanent under-secretary of state for the colonies, was Herman Merivale. While occupying the Chair, Merivale delivered his *Lectures on Colonization and Colonies*.¹⁹ Merivale repre-

¹⁷ Romano, "William Foster Lloyd," 424.

¹⁸ Marian Bowley, *Nassau Senior and Classical Economics* (New York, 1949), 125.

¹⁹ Herman Merivale, *Lectures on Colonization and Colonies* (London:

sented an emerging response to Malthusian doctrine that won out in debates over population policy during the 1830s and 1840s. This response crystallized around the role of the colonies in solving the "problem" of the poor at home.²⁰ George Poulett Scrope, for instance, argued that growing poverty in England was less a result of population pressures and more "because we have confined our growing energies too closely within the narrow limits of this little island, and have been slow to avail ourselves of the prodigious facilities for enlarging the superficial area of our industrial pursuits which are afforded by our colonies."²¹ Merivale was one of a growing number of colonial thinkers and political economists who saw salvation for England's poor in the colonies, and an important spokesman for the perspective that "wherever England plants a colony, she founds a nation of customers."²²

Merivale went further, however, and, accepting some of the logical ground of Malthus by positing population to be a key variable in theories of political economy, attempted to incorporate a theory of population growth into his own colonial theories. Colonies with higher population densities, he argued, will fare better than those without. He reasoned that in colonies with high population densities, people will be compelled to labor since there will be little or no land for them to farm on. High population density in the colonies forces people to work for wages, instead of running off to their own small-plot subsistence farms, and thereby generates a whole class of consumers for English manufactures.

Merivale also represented emerging post-emancipation colonial policy in the Caribbean, and his *Lectures on Colonization* were central to the thinking of contemporary colonialists as well as subsequent historiographers of the Caribbean.²³ His theories on population density were explicitly directed toward the problem of converting slaves into "free" laborers. On islands like Antigua and Barbados, with little unoccupied

Longman, 1841; repub. 1861; rep., New York: Augustus M. Kelley, 1967).

²⁰ Bernard Semmel, *The Rise of Free Trade Imperialism* (Cambridge: Cambridge University Press, 1970), 99; Romano, "William Foster Lloyd," 424.

²¹ G. P. Scrope, *Principles of Political Economy* (London: Longmans, 1833), 376–378, quoted by Semmel, *Rise of Free Trade*, 98–99.

²² Merivale, *Lectures on Colonization*, 159.

²³ See B.W. Higman, "Post-emancipation Historiography of the Leeward Islands," in Karen Fog Olwig, ed., *Small Islands, Large Questions: Society, Culture, and Resistance in the Post-Emancipation Caribbean* (London: Cass, 1995), 8–28.

land and high population densities, Merivale reasoned, former slaves would have no choice but to continue to work on plantations (under the promise of wages, and not, at least officially, under threat of violence). Large islands like Jamaica, with a great deal of unoccupied land and low population densities, in contrast, were likely to see the rise of independent producers escaping the plantation regime. On those islands, "the attractions of the provision ground and life independent of regimented work on the plantation were strong, and spelt doom for the [plantation] system in the long run."²⁴ Presumably, from Merivale's point of view, the attractions of the provision ground precluded the formation of new consumers and so did little to help Empire.

In spite of the fact that Merivale was one of an emerging and powerful group of free trade imperialist theorists, he seemed not to adequately assess the effects free trade would have in the Caribbean colonies. The Sugar Duties Act of 1846, which removed protections for Caribbean sugar producers (and falling sugar prices generally) hastened the demise of the plantation system in even those colonies Merivale predicted would successfully manage the transition to free labor. It is significant that few free trade imperialist thinkers visited the Caribbean, much less settled there. The end of protections for the planter class fueled their subsequent decline and left no one to fill their place in Caribbean colonial society. Instead, the post-emancipation period was characterized in large measure by absentee landowners and absentee colonial policy-makers.²⁵ To overstate the case somewhat, the old elites retreated, while the new peasantries were left to their own devices.

The retreat of elites brought on the demise of local government, as well. Free trade reforms had seriously undermined the power of the West India lobby in London, as had the abolition of slavery and humanitarian and Methodist concern over the state of former slaves.²⁶ Absenteeism among the planter class virtually guaranteed that those whose economic interests were most at stake in the Caribbean colonies would have little control over the islands' economic and political affairs. Local

²⁴ Higman, "Post-emancipation Historiography," 13.

²⁵ See Michel Rolph Trouillot, "Discourses of Rule and the Acknowledgment of the Peasantry in Dominica, W.I., 1838–1928," *American Ethnologist* 16 (1989): 704–718.

²⁶ See William Green, *British Slave Emancipation: The Sugar Colonies and the Great Experiment, 1830–1865* (Oxford: Oxford University Press, 1976), 229–260.

Caribbean elites who did not emigrate after emancipation were able to create mini-oligopolies and dominate local legislatures. These local elites were loathe to cede any authority to the now-free black majorities of their islands, and were rife with corruption—and just plain laziness, with legislators failing to attend legislative council meetings or indeed to carry out any of their duties.²⁷

Absentee interests, worried that local legislatures were corrupt and unable to govern, attempted to do away with them. The Morant Bay rebellion in Jamaica in 1865 caused absentee investors to become even more skittish about their West India prospects, and to threaten "to liquidate holdings unless the executive gained the power to build adequate safeguards against similar outbreaks" elsewhere.²⁸ Morant Bay also added momentum to humanitarian groups working to reduce the exploitation of the laboring classes.²⁹ All of these factors together eventually led absentee landlords to lobby hard in Parliament for the abrogation of Caribbean legislative and executive powers vested in local councils, and for the establishment of direct Crown control of the Caribbean colonies. They were successful. From 1854 to 1875, the legislatures of the Caribbean colonies "'voluntarily' unicameralized themselves"³⁰ and direct Crown control was established.

It is in this context of retreating local state apparatuses and direct Crown governance that the "long struggle to acquire land"³¹ began among the newly-freed and their descendants. Throughout the latter half of the nineteenth century, while British colonial officials in London debated how to govern the West Indies, and what to call their subjects there,³² Caribbean peoples made themselves into peasant proprietors, and acquired land through squatting, purchase, sharecropping systems, and other means. Berleant-Schiller notes that, at least for Montserrat, increasingly successful peasant production in effect ful-

²⁷ Howard Aston Rogers, "The Fall of the Old Representative System in the Leeward and Windward Islands, 1854–1877," Ph.D. dissertation, University of Southern California, 1970.

²⁸ *Ibid.*, 347.

²⁹ Gad Heuman, *"The Killing Time": The Morant Bay Rebellion in Jamaica* (Knoxville: University of Tennessee Press, 1994).

³⁰ Rogers, "Fall of the Old Representative System," 2.

³¹ Riva Berleant-Schiller, "From Labour to Peasantry in Montserrat after the End of Slavery," in Olwig, *Small Islands*, 60.

³² Trouillot, "Discourses of Rule."

filled one of Merivale's predictions: after 1860, import lists demonstrate a "market for new goods and comforts."³³ While official policy had been to discourage the rise of an independent peasantry, at least until the 1890s, unofficial policy, the world sugar market, and the lack of an effective state apparatus essentially fostered it. As Trouillot writes of mid-century colonial clerks, "[a]lthough they were much more anti-planters than pro-peasants, in practice, they helped the peasantry if only by taming many of the planters' most drastic suggestions to artificially limit the [newly-freed] cultivators' access to land."³⁴

Family land in the Caribbean emerges from this historical context. Peasants acquired land through squatting, and some took advantage of the Encumbered Estates Act of 1854, which liquidated the assets of bankrupt absentee planters and fragmented large plantation holdings. Elderly British Virgin Islanders I interviewed in the course of my fieldwork frequently cited the Encumbered Estates Act as the "start" of family land on Tortola, although many Tortolians also have claim to family land originally acquired through other kinds of purchase or through grants (especially grants by eighteenth-century Quaker slaveholders who manumitted their slaves and gave them land in perpetuity in the 1740s).

Colonial Policy and the Closed, Corporate Community

Many contrasts are immediately apparent between the history of family land in the Caribbean and common tenure systems in Latin America. For one thing, much more has been written about the latter than the former, making this history easier to trace and less a matter of conjecture. For another, the history of Latin American land tenures can be told in terms of powerful local elites who created independent states, implemented nationalist projects, and fought revolutions over land and identity, and of large, diverse groups of indigenous people responding, resisting, and adapting to them. Finally, while a case needs to be made for the colonial construction of common land in the Caribbean, the literature on Latin America focuses clearly on the role of colonial policy in crafting common, corporately-held land. Indeed, the colonial construction of land tenure is even part of some Latin American nationalist histories.

³³ Berleant-Schiller, "From Labour to Peasantry," 66.

³⁴ Trouillot, "Discourses of Rule," 708–09.

Indigenous peoples have always been a focus of special attention in Mesoamerica. Throughout the colonial period, as Hill writes, "Spanish law tended to treat Indian towns as corporate entities."³⁵ The system of *encomienda*, whereby conquistadors were granted rights to tribute from Indians, allowed Indians to hold land as a corporate group. Indians were also declared to be direct vassals of the Crown, and not of the *encomenderos*, in an effort to keep the *encomenderos* and their descendants firmly tied to the Spain.³⁶

Encomienda was based on the system that emerged from Castile during the Spanish Reconquest: lords who captured Muslim towns obtained the right to tribute from those towns.³⁷ But the Crown made provision for commoners in the form of the *ejido*, or "way out," a piece of land for town commoners to maintain for their own provision. *Ejido* served to guarantee loyalty to the Crown, or at to least stifle protest, while functioning as a check against overzealous lords who would abuse their privileges and, possibly, use their tributary relationships to mount a challenge to Castile.³⁸ To repopulate "newly won territories with loyal subjects," the Crown also "gave generous grants of land to commoner-settlers willing to form towns."³⁹ Various forms of common land tenure derived from this system of *encomienda*, *ejido*, and municipal grants, and these property regimes were transported to the New World with Spanish conquest in the early 1500s.⁴⁰ In Mesoamerica, the Crown granted *ejidal* lands of one square league "measured from the front steps of the town church," and "Spanish law specifically stated that the Indians were to remain in possession of whatever lands they had previously enjoyed, despite their resettlement in new towns."⁴¹

These forms of tenure also meshed with indigenous practices. In

³⁵ Robert Hill, *Colonial Cakchiquels: Highland Maya Adaptation to Spanish Rule 1600–1700* (Forth Worth, Tex.: Harcourt Brace Jovanovich, 1992), 156.

³⁶ Eric Wolf, *Sons of the Shaking Earth* (Chicago: University of Chicago Press, 1959), 190.

³⁷ See Mary Helms, *Middle America: A Culture History of Heartland and Frontiers* (Lanham, Md.: University Press of America, 1982), 127–134.

³⁸ Todd Downing, *The Mexican Earth* (Norman, Okla.: University of Oklahoma Press, 1996), 313.

³⁹ Hill, *Colonial Cakchiquels*, 49.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*, 50.

many cases, Indians had possessed usufruct rights in lands held corporately before Conquest.⁴² Hill reports for the Cakchiquel in highland Guatemala that a pre-conquest form of corporate organization, the *chinamit*, intersected with Spanish colonial corporate land tenure and political systems to ensure relatively uninterrupted indigenous control of common lands, at least in the early years of the colonial period.⁴³ Renamed *parcialidades* by the Spaniards, these social units "retained a number of pre-conquest corporate functions," especially functions relating to land.⁴⁴ As it had done during the Reconquest, the Crown also granted lands to municipalities it formed by aggregating *parcialidades* in a process called *congregacion*.⁴⁵ The result of these varied colonial practices was to enable a limited degree of indigenous autonomy in the face of Conquest and, especially, the decimation of the population through disease. As Carol Smith summarizes, *encomienda* coupled with indigenous land practices "helped Indians maintain their identity during their most difficult period, when as many as 80 percent of them died."⁴⁶ *Encomienda* reserved land for Indians while providing labor for the conquistadors.

The system of labor exaction in New Spain paralleled the slave system of the British Caribbean not only in its brutality, but also in one additional key respect. *Encomienda*, coupled with *repartimiento*, a system of labor draft that required Indian towns to send part of their healthy male population to work for the Spanish each week, undergirded a careful balance of different commercial and mercantile interests. *Encomienda* and *repartimiento* were essentially policies of centralization, maintaining ultimate authority in the direct representatives of the Crown. Through the centralized House of Trade, Spanish

⁴² See Hill, *Colonial Cakchiquels.*, 48.

⁴³ *Ibid.*, 38–39.

⁴⁴ *Ibid.*, 39.

⁴⁵ *Ibid.*, 50; see also Robert Hill, "Chinamit and Molab: Late Postclassic Highland Maya Precursors of Closed Corporate Community," *Estudios de Cultura Maya* 15 (1984): 301–27; and Robert Hill and John Monaghan, *Continuities in Highland Maya Social Organization: Ethnohistory in Sacapulas, Guatemala* (Philadelphia: University of Pennsylvania Press, 1987).

⁴⁶ Carol Smith, "Introduction: Social Relations in Guatemala over Time and Space," in Carol Smith, ed., *Guatemalan Indians and the State: 1540-1988* (Austin: University of Texas Press, 1990), 14; see also Helms, *Middle America*, 149.

trade and commerce was equally centralized. Trade was permitted only through certain ports.⁴⁷ The Crown maintained control of its vast holdings in New Spain by a combination of the careful regulation of labor, the careful regulation of trade through mercantilist policies, and the careful control of *encomenderos* through systems of tribute relationships. Like the British Caribbean plantation system before emancipation, Spanish colonialism was, at least from the point of view of trade and regulation, a mercantilist endeavor.

The decline of Indian populations, however, coupled with the exhaustion of silver mines in New Spain and subsequent inflation and economic depression, necessitated drastic measures to preserve Spain's golden age. The Crown experimented in the 1600s with two parallel and somewhat contradictory systems of imperial control and resource extraction to stave off the demise of empire. First, it allowed private individuals to purchase land from the Crown outright, and to establish *haciendas*. Using debt peonage to draw in Indian laborers, *haciendas* were successful for a time, although their success encouraged the rise of a creole elite who would later mount challenges to Spanish authority. Second, the Crown encouraged the creation of *repúblicas de indios*, or Indian republics, formed from the Indian towns that had been fostered earlier. The *repúblicas de indios* maintained *ejidal* lands, removed land from commodity relations, practiced group endogamy to keep lands within the community, and established systems of ritual offices.⁴⁸ Indian towns thus became the "closed, corporate communities" of anthropological fame.⁴⁹

Depression, declining Indian populations, the *hacienda* system, and the closed, corporate community all contributed to the decline of imperial centralization. Toward the end of the seventeenth century, "cities and their hinterlands . . . turn[ed] inwards to their own resources and . . . champion[ed] their own local interests to the exclusion of wider integration or orientations."⁵⁰ The ascendancy of the Bourbon house after the War of Spanish Succession (1713) checked these decentraliz-

⁴⁷ Seville in Spain, Cartagena in Colombia, Nombre de Dios in Panama, and Veracruz in Mexico; see Helms, *Middle America*, 156–160.

⁴⁸ Wolf, *Sons*, 202–16.

⁴⁹ Eric Wolf, "Closed Corporate Peasant Communities in Mesoamerica and Central Java," *Southwestern Journal of Anthropology* 13, no. 1 (1957): 1–18.

⁵⁰ Helms, *Middle America*, 191.

ing tendencies. The period of Bourbon reform was a precursor to later liberal readjustments. In their effort to reassert central control over New Spain, the Enlightenment-influenced Bourbon rulers created new political districts under the leadership of peninsular Spaniards. They also reduced the power of the clergy, and liberalized trade restrictions. These policies sparked resentment among wealthy creole colonists and merchants, but also spurred on investments in agriculture and mining.⁵¹

In spite of these changes, the Bourbon reforms did little to alter Indian life. New Enlightenment imperatives to rationalize landholding and record-keeping did encourage the granting of formal titles to ejidal lands and the keeping of deeds and other legal paperwork.⁵² As Besserer's contribution to this volume indicates, these pieces of paper profoundly impacted indigenous conceptualizations of the land, and continue to carry rich symbolic meaning. But the corporate character of Indian communities remained unchanged, because the defensive posture of Indian communities during hacienda and congregacion days had "effectively protected the colonial native community from total dissolution and assimilation into the wider colonial society."⁵³ Helms continues:

The congregaciones provided a corporateness and a religious focal point for community affairs, while the mere existence of a rapacious hacienda, where many villagers labored to augment their traditional subsistence base, unified the community against this common threat.⁵⁴

In the beginning of the nineteenth century, however, with increasing economic competition among imperial rivals, and the Napoleonic Wars, the affairs of New Spain radically altered in a relatively short period of time. The defeat of the Spanish Bourbons at the hands of Napoleon, and the reinstallation of the monarchy with British assistance, caused confusion in the colonies and allowed regional military leaders, the *caudillos*, to step into the breach and begin to make a play for power. Elites in New Spain feared further liberalization of empire under the British-installed Ferdinand VII. In 1821, they declared independence under their own monarch, Colonel Agustín Iturbide. By 1823, regionalisms

⁵¹ Helms, *Middle America*, 194–95.

⁵² Hill, *Colonial Cakchiquels*, 156.

⁵³ Helms, *Middle America*, 198.

⁵⁴ *Ibid.*

had shattered the new monarchy and it fell apart into smaller units.⁵⁵ In addition to being marked by caudillo insurrections and political fragmentation, the 1820s were also a period of conflict between conservatives representing the old elites, and liberals who envisioned independence not only from Spain, but from the Church and other corporate interests as well. The rise to prominence of the liberals during the nineteenth century spelled great changes for corporate Indian communities.

In Mexico, liberal reform came first in the figure of Benito Juárez, who assumed power in 1854. Juárez attempted to break corporate entities dominating Mexico by secularizing the state, nationalizing Church property, and privatizing corporately-held ejidal lands. Some Indian communities lost their lands during this period, but a War of Reform, and the temporary installation of Emperor Maximilian by France in an effort to re-establish monarchy, put a hold on the liberals' plans for reconstructing Mexico until the rise of the next great liberal dictator, Porfirio Díaz, in 1876.

Porfirio Díaz and his *científicos*, Comptian "scientist"-advisors who sought to create order and progress throughout Mexico, implemented reforms designed to "advance" the country's agricultural and industrial base and to police the population to prevent uprisings. Guided by positivist and evolutionary thinking, the *científicos* also sought to break up Indian communities, seen as vestiges of a primitive past unsuited to the new modern age. The Indian, according to the nineteenth-century novelist Francisco Gamboa, was a "degenerate," a member of a "poverty-stricken herd . . . and of a race . . . naked of intelligence, its blood exhausted."⁵⁶ In the opinion of the *científicos*, these evolutionarily-unfit creatures had been supported by the state for too long; Díaz thus "resolved to eradicate Indianism and Indian property concepts, and the first step was to finish the job of breaking up the ejidos."⁵⁷ The Porfiriato was rather successful in its efforts: "[b]y 1910 nearly half of Mexico was held by less than three thousand families, while of the ten million Mexicans engaged in agriculture, more than nine and a half million did not own the land which they were working with their hands."⁵⁸

⁵⁵ Helms, *Middle America*, 219–21.

⁵⁶ Quoted in Downing, *Mexican Earth*, 213.

⁵⁷ *Ibid.*, 212.

⁵⁸ *Ibid.*, 224.

It bears noting that one of the factors accounting for the Porfiriato's successes was increased foreign investment in mining and railroad construction. These investments came from U.S. interests eyeing the isthmus of Panama, and from British interests seeking to counter the U.S. As the British imperial eye and British free trade enthusiasts were turning away from the Caribbean islands, they began to focus on Latin America's Caribbean coast and on Mexico.

By 1900, land had taken center stage in Indian and peasant efforts to resist the liberal dictatorship, and demands for the return of lands expropriated during the latter part of the nineteenth century became the rallying cries for revolutionary activity of the early twentieth. These culminated in the Mexican Revolution in 1910, and the new revolutionary Constitution of 1916, which included provisions for the dissolution of large estates and for land redistribution.⁵⁹ The revolutionary ideas were put into practice in the agrarian reform of the new, post-revolutionary administration of Lázaro Cárdenas. Cárdenas reinstated the ejido for Indian communities, while a new cadre of nationalists—this time, romantic, not positivist—extolled the glories of “the Indian” as part of the national heritage of Mexico. Land reform coincided with *indigenismo*, a new nationalist vision that was ostensibly pro-Indian yet firmly tied to state interests. This is nowhere better exemplified than in the stipulation that ejidal lands be considered “the property of the national government,”⁶⁰ not Indian communities themselves. As “the Indian” was nationalized to become part of a new identity, so too were the Indian's lands.

Kinship and Corporate Identities in the Global Commons

As should be clear from this brief historical sketch, the layers of colonial, nationalist, liberal and “indianist” policies underlying Mesoamerican *ejidal* lands make them different in kind from Caribbean family land, with different implications for identity. Colonized under quasi-feudal principles in the wake of the Reconquest, Mesoamerican indigenous peoples developed systems of common land tenure based on notions of corporate community, group endogamy and group solidarity. These changed, at least officially, under eighteenth- and nineteenth-century liberal reforms, but indigenous communities managed to main-

⁵⁹ Helms, *Middle America*, 243.

⁶⁰ *Ibid.*, 263.

tain them—here as resistance, and there as state policy. Twentieth-century indianist nationalism linked the corporate community to the state and national identity to the land, so that even under neoliberal reform the land and community remain strong bases for solidarity and political organizing.

Caribbean family land, in contrast, seems to be just that: “family” land. As Maurer's essay in this volume suggests, free trade imperialism in the nineteenth century may have encouraged certain enduring understandings of “family” as an interplay of notions of biogenetic relatedness with notions of paternity. Among nineteenth-century Caribbean peasantries, kinship emerged as a means of constructing and organizing identity. Corporate groups did not.

At least, not in the smaller islands characterized by high population densities. Jean Besson's essay shows how corporate identity did emerge among the Accompong maroons of Jamaica, through a complex interplay of colonial legislation, colonial state power, and local resistance and response—a similar process to that which gave rise to the ejido in Mexico. Besson shows how Accompong maroons have maintained their commons in spite of free-trade era attempts to break up and individualize their land holdings. The Accompong maroons' successful maintenance of their commons also shares with Mesoamerican ejidal lands an emphasis on the land as sacred space, and a highly elaborated ritual code of conduct for dealing with it. Land, for the Accompong, is clearly not an economic resource but a symbolic one. It is curious, through, that the Accompong maroons have also elaborated a notion of kinship as genealogical descent, symbolized by their sacred Kindah tree. Besson identifies here an adaptive creolizing response to “escalating capitalist land monopoly” in Jamaica. Kinship ideology together with corporate status has enabled the Accompong maroons to maintain their creole commons.

Karen Fog Olwig's essay also highlights the symbolic dimension of family land. Her work on St. John demonstrates the interplay of local and global forces in the creation and perseverance of the Caribbean commons. People tell histories of rooting and uprooting in describing their interactions with family land. In spite of court records that indicate large numbers of relatives being parceled out fractions of land after disputes or deaths, Olwig finds that usually only a few people with claim to family land actually live on it while others migrate elsewhere for employment and educational opportunities. Yet the land has become

a symbol of identity for those thus “uprooted,” and a powerful marker of belonging. “The importance of family land,” she writes, “should be found in its value as an actual and imagined home for people who have had to make their living as ‘hunters and gatherers’ in the margins of the global economy.”

Federico Besserer’s paper on Mixtec conceptions of space, land and territory puts a new spin on Eric Wolf’s classic statement that the closed, corporate community “is territorial, not kinship based.”⁶¹ Besserer reflects on the object-status of the land that this quotation implies, and that colonial-era documents from the period of Bourbon reform attempted to enforce. Bourbon liberals mapped out Mixtec lands and left an impressive record of their administrative accomplishments. But another look at these documents, and interviews with those who still interact with the land, reveals that the power of mapping to record objective territory works to create that territory, but never entirely as colonials might have intended. Besserer’s essay points toward the negotiations knowledge that occur over the creation of “land,” as contemporary Mixtecs move into and out of the conceptual and physical spaces they forge together with their transnational identities.

Besserer, Olwig and Besson together show that the meaning of common land is often bound up with ideas about tradition, heritage and belonging. This fact points toward one final issue surrounding common land in Latin America and the Caribbean. As markets globalize, new local identities are in the process of being crafted. Legal anthropologists are witnessing a rise of “customary law” in context of neoliberal reform and new free trade policies. These constructions of local identity have their roots in the colonial period discussed here. For instance, as Indians became new symbols of the Mexican nation in the early twentieth century, so their lands became symbols of identity and unity. The Zapatista uprising of 1994, and continuing protests against recent “neoliberal” revisions to Mexico’s constitution—especially to Article 27, which concerns *ejidal* lands⁶²—are a testament to the enduring

⁶¹ Wolf, “Closed Corporate Peasant Communities,” 3.

⁶² See Hector Ortiz Elizondo and R. Aida Hernandez Castillo, “Constitutional Amendments and New Imaginings of the Nation: Legal Anthropological and Gendered Perspectives on ‘Multicultural Mexico,’” *PoLAR: Political and Legal Anthropology Review* 19, no. 1 (1996): 59–66; and George A. Collier, *Basta! Land and the Zapatista Rebellion in Chiapas* (Oakland: Food First Books, 1995).

character of corporate identity and communal landholding in Mesoamerica. Olwig’s and Besson’s essays demonstrate that family land is playing a similar role in the Caribbean, in the face of structural adjustment, as a key symbol of identity and an important battle-ground for debates over citizenship and belonging.⁶³

There is no reason not to expect the commons to continue to be a site and space of identity-claims and the creation of new forms of personhood. As McCay and Fortmann write, “the commons is an evolving form of property, eminently suited to the twenty first century—one which allows local claims, cultures and ecosystems to be defended in an era of globalization.”⁶⁴ Globalization, however, is also creating new “commons,” ones which we might soon find people exploiting. British Virgin Islanders are already attempting to capture a segment of the “global commons” of finance;⁶⁵ and indigenous groups around the world are attempting to use international forums like the United Nations and transnational non-governmental organizations to make claims for indigenous rights, human rights, and citizenship. The commons of the twenty first century do not have to be the staging-grounds for a defense against the global. They could themselves be global phenomena, and represent an attempt to capture the global, to redefine and reimagine it. The pressing political question is not merely whether “local” commons can survive “global” forces, but also to what uses new global commons will be put, and by whom.

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⁶³ See Crichlow, “An Alternative Approach.”

⁶⁴ McCay and Fortmann, “Voices from the Commons,” 25.

⁶⁵ Bill Maurer, *Recharting the Caribbean: Land, Law, and Citizenship in the British Virgin Islands* (Ann Arbor: University of Michigan Press, 1997).