

# Policing the Pueblo: Vagrancy and Indigenous Citizenship in Oaxaca, 1848–1876

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**Abstract.** This article explores the politics of citizenship in Zapotec communities in nineteenth-century Oaxaca, Mexico. Several studies discuss how Indigenous peoples were incorporated into the Mexican nation-state during this period, but few have examined how state law and Indigenous customs meshed to produce modern Mexican citizenship. This study examines the construction of Mexican citizenship through Zapotec people's experiences with vagrancy laws. For Indigenous peoples, two forms of citizenship existed: a republican citizenship that was reserved for all adult males and upheld by Mexican law, and an unwritten Indigenous citizenship that included both adult males and females. Based on close readings of criminal records, government reports, and correspondence between state officials and local Zapotec authorities in the Tlacolula Valley, this article demonstrates that, unlike Mexican citizenship, membership in Indigenous communities, which the author calls "Indigenous citizenship," rested on members' payment of state taxes and provision of financial and labor contributions for the *pueblo* (community). Those who refused to pay their state taxes or rejected the gendered customs of their *pueblo* were punished by the community: females were punished by the patriarchs of the family while males were punished through state institutions. As the state's repressive institutions expanded throughout the course of the nineteenth century, Indigenous leaders found more recourse to punish males who failed to live "honorably" as members of Indigenous communities. Considering the interplay between Mexican and Indigenous citizenship, this article explores how Zapotec communities utilized vagrancy laws, in particular, to police and criminalize males who threatened Indigenous social life by behaving in dishonorable ways.

**Keywords.** citizenship, autonomy, vagrancy, *costumbres*, Oaxaca

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In 1848, Mexico signed the Treaty of Guadalupe Hidalgo, ceding half of its territory to the United States. With an army composed of poorly trained and poorly armed militias, Mexican forces were unable to defend their northern frontier and thus their national sovereignty against the United States and the Native nations who continued to raid Mexican settlements in the borderlands. The humiliating defeat led to an unprecedented shift in Mexican statecraft as Mexico's elites came to see their defeat as a consequence of Mexico's inability to build a strong postcolonial state. As Peter Guardino (2017: 4) notes, "Mexico became a society that paid a great deal of rhetorical attention to democracy and individual rights but ensured social peace through a pragmatic authoritarianism that allowed social mobility for ambitious politicians but oriented social and economic policy toward making Mexico one of the best places in the world for wealthy entrepreneurs to earn profits." Despite the ongoing strife between federalists and centralists, statesmen at the federal, state, and local levels worked together to successfully expand Mexico's repressive institutions, such as the military, local police, and penal institutions. This article engages two distinct scholarly conversations: the literature that examines the making of a capitalist economy through vagrancy laws and the literature on popular politics. Joining these two threads of scholarship allows us to see how local, national, and even global developments impacted the daily lives of Indigenous peoples and Indigenous autonomy in Mexico.

While there are several studies that examine how the Mexican state criminalized poor, underemployed males (Dabove 2007; Frazer 2006; Warren 2001; Piccato 2001; Aguirre and Buffington 2000; Arrom 1989), few studies have examined how the expansion of repressive state institutions unfolded in Indigenous *pueblos* (communities). In *Nightmares of the Lettered City: Banditry and Literature in Latin America*, Juan Pablo Dabove (2007) takes on the idea of the "lettered city" and discusses the characters that haunt and threaten the safety and survival of the lettered city, the nucleus of the Latin American republic. As Dabove points out, the "bandit" is the quintessential villain in the literature of nineteenth-century Mexico, and it remains an important subject in historical and literary studies covering that period. Yet, the wide range of activities that constituted banditry were so varied that defining banditry by a particular activity is difficult, to say the least. Yet, the primary characteristics of "bandits" are that they tended to be from the poor or popular classes, lacked "formal" and stable employment, and stole and/or destroyed private property. Another aspect of banditry that became more widespread by the late 1860s was kidnapping, or *plagio*, which was "more profitable and less dangerous than highway robbery" (Frazer 2006: 53). But as Kathryn Sloan (2008)

reminds us, what appears in the archive as *rapto*, a form of kidnapping that entailed a male taking a female victim by force, was sometimes an orchestrated and, therefore, consensual effort by the “victim” and perpetrator to run away together. Sloan’s (2008) study of the intimate politics of the family and the state’s attempts to control women’s lives leads us to ask questions about how families negotiated their reputation or “honor” as a unit within the community, especially in rural pueblos that adhered to ancestral Indigenous customs.

Studies that examine Indigenous-state relations in nineteenth-century Mexico, on the contrary, tend to do so through the prism of “popular politics,” which includes popular liberalism (Caplan 2010; McNamara 2007; Guardino 2005; Chassen-López 2004; Thomson and LaFrance 1999; Mallon 1995) and popular conservatism (Brittsan 2015; Smith 2012). The majority of these studies examine how Indigenous communities leveraged their position vis-à-vis the state through their participation in militias or the armed forces, especially the National Guard. When the Mexican state entered into crisis, especially during civil war or foreign intervention, it created a moment of opportunity for the “popular classes” to make demands on the state in exchange for military support, and many Indigenous communities throughout Mexico did so. While Florencia E. Mallon (1995) focused on Puebla’s northern sierra during the French intervention (1861–67), later studies (Thomson and LaFrance 1999; McNamara 2007) examined National Guard units and their evolving relations with the state from the mid-nineteenth century to the Mexican Revolution of 1910. These studies allowed us to track how military service made it possible for Indigenous communities to leverage their position with state authorities, but few of these studies consider those Indigenous soldiers who were conscripted and served against their will. In places like Oaxaca, where approximately two-thirds of the total population was Indigenous, local Indigenous authorities utilized the armed forces—and conscription in particular—to physically remove adult men who failed to live honorably according to local custom.

Building on this literature, this article addresses the following question: How did Indigenous communities shape the application of Mexico’s vagrancy laws and the evolution of repressive institutions after the US-Mexico War? Through an examination of judicial records pertaining to Oaxaca’s Tlacolula Valley, this article finds that the expansion of the state’s repressive institutions limited the promise of liberal citizenship for Indigenous males while strengthening the power of local Indigenous authorities who utilized local customs (*costumbres*) to define the limits of Indigenous citizenship.

## Mexico after Independence

The Mexican government's inability to extend its reach into Mexico's deep South for nearly three decades after independence led to a de facto autonomy for Indigenous pueblos in Oaxaca. Unlike Native sovereignty in North America (United States) where Native nations had their own government institutions, Indigenous autonomy in Oaxaca was characterized by Indigenous communities' ability to administer their local affairs while abiding by Mexican state and federal law. With a divided political elite at the national level, Oaxaca's state government preempted rebellion by modifying—not eliminating—the customary law regime that had been created by the Spanish colonial state (1521–1821). As Karen Caplan (2010: 19) explains for the Spanish colonial period, “The members of the [Indigenous] councils were responsible for the collection of royal tribute and had an important role in the distribution of labor drafts. As such, they were also essential to the extraction of resources from the indigenous population.” In the Tlacolula Valley, Zapotecs dominated local markets and retained their lands. Thus, the main form of extraction occurred in the form of taxes, especially the head tax (*capitación*), which all adult males had to pay on a monthly basis.

Mexico's political leaders viewed wage labor as indispensable to the building of a modern republic and the making of “good” citizens. After President Vicente Guerrero abolished slavery in 1829, the state devised new ways to ensure a constant supply of workers. This occurred mainly through the criminalization of non-elite forms of leisure, especially those that occurred in the “public sphere.” Drinking in public or loitering, for example, could have one arrested and taken to the local jail for vagrancy. The “vagrant” as an undisciplined individual appeared for the first time in the republican legal code in 1828 when the national government established the *Tribunales de Vagos* (Vagrant Tribunals), which required the creation of a tribunal in every *partido* (judicial district). The proclamation that created these tribunals defined vagrants as men who made a living through, engaged in, or were suspected of engaging in illicit activities, men who panhandled despite being “robust and healthy,” and men who “scandalized” their home and pueblo (Arrom 1989: 215–35). Men who were found guilty of vagrancy were generally put in local jails for short periods of time, forced to pay a fine to the local authorities, or were sent to the armed forces as punishment, although forced military service was usually reserved for repeat offenders. This tribunal system was functional for several years but was abolished during the US-Mexico War to increase the number of conscripts. With the vagrant tribunal system gone, according to Silvia M.

Arrom (1989: 220), local authorities could now dragoon accused vagrants without a hearing, streamlining the process to attain this much-needed gendered labor. Without this hearing, practically anyone could be accused of being a vagrant and taken by the state to defend the *patria*.

In 1852, four years after the war with the United States, Oaxaca's state government proclaimed a decree that outlined the behaviors that constituted vagrancy and established a vagrant tribunal system that required the *juez de primera instancia* (district judge) to hear vagrancy cases forwarded by the district's pueblos. Oaxaca's vagrancy laws resembled the national proclamation of 1828 and defined vagrants as men who:

1. were idle and did not engage in any licit occupation;
2. did not exercise their profession or *oficio* (trade) the majority of the time without justification;
3. spent most of their time in taverns or *casas de juego* (gambling houses) without having anything to subsist with;
4. drank and gambled habitually;
5. habitually panhandled despite being healthy and robust or whose injuries did not impede them from working;
6. were sons who set a bad example and scandalized their community by disobeying and disrespecting their parents or guardians, practiced *malas costumbres* (bad habits), and appeared to be unemployed;
7. went to markets, festivals, and other public events and places with prohibited games, such as *carcaman*, *chusa*, *imperial*, and others, as well as those who carried images or collection boxes and asked for alms without the appropriate license.<sup>1</sup>

To insure a fair trial, the district judge was required to receive the declarations of two or more individuals of "notorious integrity" from the suspect's pueblo who could speak on the suspect's character.<sup>2</sup> In many cases, the declarations from fellow *paisanos* (individuals from the same pueblo) determined the suspect's fate in court. While most of these cases involved incriminating physical evidence, the narratives that paisanos created about the suspect were usually enough to prove that the suspect was indeed a vagrant.

One's reputation within the community was dependent on various factors, including one's adherence to patriarchal values, respect for the pueblo's *costumbres* (customs), and obedience to elders and local officials. As the literature on the Mesoamerican cargo system (Wolfe 1959; Chance and Taylor 1985; Magazine 2012) has demonstrated, males' prestige within Indigenous communities increased as they fulfilled their obligatory service in the local cargo system, which included the religious *cofradías*

(confraternities) and the administrative council. One's reputation within the community began to be shaped as early as childhood, and adult men and youth were punished for transgressing local norms. In 1861, for instance, the authorities of Teitipac apprehended the *jóven* (youth) Pedro Antonio for theft, desertion, and vagrancy and sent him to the district authorities in Tlacolula. The *jefe político* (district prefect) felt pity for Antonio and placed him under the care of the blacksmith, Apolonio Reyes, hoping he would learn a valuable skill and stay out of trouble. The jefe político believed that Reyes would be able to offer Antonio valuable skills that would keep him busy and out of trouble in the short run while offering him a potential form of subsistence in the long run. Antonio, however, ran away on his first day as an apprentice. When the jefe político found him, he apprehended him and sent him to Oaxaca City for military service.<sup>3</sup> Even though Antonio's exact age was never mentioned in the archival record, the fact that he was referred to as a *jóven* and that the jefe político offered an alternative to incarceration when Antonio was initially apprehended indicates that Antonio was likely a teenager. Antonio was too young for jail but apparently not young enough to avoid the "blood contingent," as military service was sometimes called. Although it is difficult to know whether Antonio led a life of crime in adulthood, the fact that he was already known by the local authorities at such a young age increased his chances of becoming known within the community as a miscreant. Narratives about people's lives were constructed through one's behavior in the public sphere, and these narratives shaped paisanos' perceptions of each other and dictated, in many cases, whether someone was regarded as a "good" or "bad" member of the community.

Mexican citizenship and the local Indigenous councils were reserved for adult males, but women were expected to fulfill their gendered obligations, both in the home and the community at large. Their reputation within the pueblo depended on their successful performance of domestic and affective labor as mothers, daughters, and wives. They were responsible for cooking, cleaning, and raising children and were considered legal minors under the tutelage of their father until later in life than males. The 1870 and 1884 civil codes, for example, reinforced women's subordination by changing single (unmarried) males' age of majority from twenty-five to twenty-one while "requiring the single daughter to obtain parental permission to move out of the family home until the age of thirty" (Arrom 1985: 307–8). When fathers did not approve of their daughter's decision to marry, young women simply ran away to live in *amasiato* (common law marriage), giving up their access to any property or inheritance that they would otherwise have access to. These "runaway daughters," as Sloan (2008) refers to them, renounced their family's honor by refusing to

conform to patriarchal values that policed their sexuality. As Sloan (2008: 41) explains, “In nineteenth-century Mexico, as in most other nations striving for civilization and modernity under an ideology of liberalism, the elite believed marriage should be contracted through a civil ceremony. Consensual unions and concubinage, in their eyes, represented vestiges of a disorderly and traditional past characterized by perverse sexuality and depravity.” The state’s control over women’s bodies was not separate from local authorities’ policing of males from the pueblo, since the ultimate goal of both was the formation of nuclear families who could pay taxes and meet the state’s demand for soldiers, workers, and war supplies. It was women’s reproductive labor that really made it possible for males to work in the fields, serve in the local council without pay, and most importantly, pay the taxes that the state demanded in exchange for Mexican citizenship.

As in Guatemala and other parts of Latin America with large Indigenous populations, women played an important role in the “alcohol economy” in Oaxaca (Carey 2012: 4). Women owned many of the *tienditas*, or small stores, that sold mezcal (agave-based distilled liquor) and tepache (fruit-based fermented beverage). State authorities and members of the community viewed casual drinking as benign, but excessive drinking was seen as a problem. Most heavy drinking took place on annual patron-saint festivities, but market days were also popular drinking days for men. As William B. Taylor (1979: 58) noted for the Spanish colonial period, “The cycle of regional markets . . . provided common occasions for peasant drinking.” Sunday was market day in Tlacolula and one of the few days of the week when one could see friends from different pueblos all at once. The excitement of seeing friends from different pueblos at the weekly market likely encouraged drinking at these *tienditas*. During the second half of the nineteenth century, Mexican intellectuals and statesmen attributed many of society’s ills on excessive alcoholic consumption. But not all alcoholic beverages were equal. According to Deborah Toner (2015: 196), “The view that only distilled spirits caused alcoholism was widespread until the 1920s.” This meant that the mezcal that was accustomed in Oaxaca for special occasions, including death ceremonies, would be considered one of those spirits that caused alcoholism and degeneration. Yet, in the criminal records, local authorities did not discuss alcoholism and degeneration. For local authorities, public drunkenness was considered a *mala costumbre* (bad habit) that threatened the community’s good customs, but it was also seen as an opportunity to generate income for the pueblo. On 3 September 1868, for example, the authorities of Santa Ana del Valle arrested a man named Lorenzo García and brought him to the municipal office for questioning. They accused him of having escaped from the municipal jail on 30 August after he had been arrested for public drunkenness. According to the

*topiles*, the *auxiliares*, and the *agente municipal* of Santa Ana del Valle, on the evening of 30 August, when they were out on their nightly patrol, they found García drunk on the street and took him to the local jail. After leaving him there, they went back on their nightly patrol, and when they returned a couple hours later with another drunken male, they noticed that García was no longer there. They claimed that García had escaped through an opening on the roof where he had removed a beam. In his defense, García claimed that he was too drunk to remember what happened that night. Additionally, he defended his character by arguing that it was public knowledge in his community that he was an honest man (*hombre de bien*). The fact that he was drunk, according to García's logic, did not tarnish his reputation as an upstanding member of the community. The authorities of Santa Ana del Valle sent García to the district jail in Tlacolula and forwarded the case to the district judge. After assessing the evidence against García, the district judge found him guilty of escaping from the jail but rejected the accusation that he had created an opening in the roof by removing one of the beams. The judge pointed to the obvious: how could García have been able to remove the beam from the roof and escape if he was as intoxicated as the local authorities claimed he was? The accusations made by Santa Ana's authorities seemed incongruous to the district judge. Had García been found guilty, he would have been forced to pay for the repairs, the cost of which would have been between two pesos and twenty reales, according to a quote provided by an *albañil* named Macario Flores and his associates.<sup>4</sup> As this case demonstrates, local authorities could easily claim that someone was drunk in public to put them in jail or demand a fine, yet the judicial system appears to have worked in favor of the accused when there was sufficient evidence.

Although *auxiliares* and *topiles* did the policing within *pueblos*, they sometimes required the assistance of armed troops, especially during patron-saint festivals when hundreds of visitors from other *pueblos* were in attendance. As Stephen Neufeld (2017) has pointed out, however, Mexico's soldiers were far from exemplary defenders of the nation. On 2 October 1865, for example, days before the annual patron-saint festival of Tlacolula, the prefect, Antonio Prado, requested some troops from Oaxaca City to help keep the peace. Pointing out that many people from the region would attend Tlacolula's patron-saint festival, the prefect worried that a riot would break out between visitors from rival *pueblos*, especially those that had ongoing land disputes. Being one of the most important celebrations in the region, it was no surprise that visitors would be consuming alcohol, making the risk of violence greater. The state government approved the prefect's request and soldiers arrived in Tlacolula. But instead of keeping the peace, as they were



requested to do, they raised such a ruckus that the prefect was forced to dispatch them before the festival was over.<sup>5</sup> As this example illustrates, relying on soldiers to provide security was risky and could potentially create more problems for local authorities. The community's traditional police force—the topiles—were far more efficient than the soldiers since they were familiar with the local customs, knew the Native language, and they were under more social pressure to fulfill their role in a respectful and responsible way as members of the community.

While policing was ostensibly to keep the peace within the pueblos, council members—and topiles in particular—benefited financially from the criminalization of other paisanos. Local authorities did not receive a salary for serving in the local council, but state law did allow them to keep the money they collected from fines. Local authorities fined and requested payment from drunken individuals immediately after encountering them, and if they did not have the money to pay, they would be taken into custody. Those who were arrested were often beaten, especially if they resisted arrest. On 14 April 1868, for instance, Manuel Ruíz from Santa Cruz Papalutla appeared before the district judge and filed a report against the auxiliaries of his pueblo for assaulting him. According to Ruíz, after drinking pulque and mezcal on Sunday afternoon, he was on his way back home around seven o'clock when about nine auxiliaries approached him. The auxiliaries ordered Ruíz to walk over to the local jail, but when he tried to plea with the auxiliaries, they began beating him with sticks and whipping him with the machetes they were carrying. Ruíz's wife intervened and was able to convince the auxiliaries to let him go home.

Ruíz, likely feeling humiliated, filed a complaint against the auxiliaries. At the court hearing, Ruíz's wife corroborated his story, but the *teniente de auxiliaries*, Gerardo de la Cruz, told a different story. According to de la Cruz, they had found Ruíz around midnight, not seven o'clock, and when they told him that he would be going to jail, Ruíz began insulting them, challenging them to “take him if they were men.” They began walking him to jail, but when they reached the main door, Ruíz began resisting violently, knocking de la Cruz to the floor. De la Cruz then stood up and knocked Ruíz to the floor. After hearing the testimonies of all of those involved in the incident, including Ruíz's brother, the judge found Ruíz guilty of resisting arrest.<sup>6</sup> Despite Ruíz's wife and brother testifying in Ruíz's favor, the judge sided with the pueblo's auxiliaries. In cases where the accused were auxiliaries or council members, the judge rarely called witnesses in to provide their testimony or to give an assessment of the accused's reputation within the community, a protocol they did observe when both parties were civilians. Even though the odds of winning against the local authorities were slim, the fact that

ordinary people filed formal complaints against them indicates that they viewed the legal system as a viable option to address their grievances.

The auxiliares and topiles generally patrolled the streets of the pueblos, but they did not patrol the outskirts of the pueblo, where assaults sometimes occurred against travelers and muleteers. Natives of the Tlacolula Valley worried about the bandits who roamed the roads that connected Tlacolula to Oaxaca City, the Isthmus of Tehuantepec, and the Sierra Norte. Men, women, and youth were often robbed as they traveled on those lonely roads. The bandits who robbed travelers and muleteers along trade routes were generally men who were native to the region and knew the territory well, as exemplified by a court case from 1868. One April morning, sixteen-year-old Aniseta Cresencia from Totolapa was walking toward San Dionicio with her newborn and her little brother when someone ordered them to stop. When Cresencia turned, she saw two masked men armed with muskets who were wearing untucked shirts and white trousers that were rolled up above the knees. Suddenly, three more men with muskets appeared in front of the young woman. Surrounded, the woman pleaded with the men but to no avail. She was taken, along with her brother and her newborn, to a nearby canyon where thirteen others had been tied up and forced to lie face down on the dirt. One of the assailants told Cresencia that he knew who she was and warned her that if she “burned them” (reported them to the authorities) he would kill her. By his body type and voice, she was able to identify the man as Longino Díaz, a native of her pueblo who had not lived in the community ever since he got caught stealing. Like many others who committed crimes or transgressed the social norms of the pueblos, he had been forced to leave his community. If he had stayed, it is likely that he would have been jailed or conscripted into the armed forces.<sup>7</sup> Although the Mexican state created a legal apparatus to capture and punish bandits, local authorities in the Tlacolula District rarely apprehended those who operated in the outskirts of the pueblos as a result of their limited capacity. Bandits usually fled to the mountains of the Sierra Norte before local authorities could dispatch any troops or auxiliares to apprehend them. Bandits or men accused of banditry make rare appearances in the archives, but when they do, they conjure up images of the ruthless bandits described by Manuel Ignacio Altamirano (2010) in his classic novel. *El Zarco*, the nickname of a hypermasculine bandit who leads a band of criminals and terrorizes the virtually defenseless inhabitants of Yautepec, a small pueblo in Morelos. Banditry was a prominent topic in nineteenth-century Mexican literature and reproduced the image of a savage countryside where the rule of law was nonexistent. As Juan Pablo Dabove (2007: 7) argues, banditry was “crucial in the constitution of the paradigms of bandit/citizen and

outlaw violence/state violence.” During the mid-nineteenth century, Mexican novels such as *El Zarco* created the image of a dangerous or “monstrous” countryside that threatened the future of the nation and served to justify militarization and repression in the *unlettered* countryside (Dabove 2007). Bandits in this part of Oaxaca, however, were not social outcasts or “monsters” that traveled endlessly throughout the countryside, pillaging pueblo after pueblo—they were men who were native to the region. Even after being banished from their pueblos, they continued to reside in the region.

While district authorities condemned the crimes committed by bandits, the local authorities of bandits’ home community had different responses depending on who the victims were. Neighboring pueblos often feuded over the boundaries of their territories, so it is likely that councilmembers purposely failed to prosecute the perpetrators when the victims were from rival pueblos. The bandits, who were themselves outcasts of both the Mexican nation and Native pueblos, could operate as autonomous individuals with no connections to their pueblos of origin. As such, councilmembers of bandits’ communities of origin could claim to have no connection to those individuals yet indirectly benefit from the crimes committed against their rivals. Since rumor was one of the most powerful forms of communication within the pueblos, it is likely that local authorities learned of individuals’ illicit activities through word of mouth. Yet councilmembers consistently claimed that the suspects were unknown. Banditry was a practice that was tolerated by local authorities because it achieved what paisanos could no longer do without being punished by the state—settle scores with their rivals from neighboring communities.

Local authorities employed a wide range of punishments for males who violated state law, but conscription was the best option to physically remove miscreants from the community. Conscription as a form of punishment became more common with the centralization of the armed forces after the US-Mexico War (1846–48). Beginning in 1848, every eighteen-year-old male was required to register with the National Guard, as outlined in the National Guard Law of that year. The local authorities of every municipality were required to register able-bodied men who were eligible for service, making note of the enlistee’s name, age, marital status, and profession. Men who failed to enlist in the registry could be fined up to one hundred pesos or face imprisonment for up to thirty days. Males who failed to register would be prohibited from serving in any local office for a year (*Ley orgánica* 1848). Although being barred from office for a year was written as a punishment, males likely saw this in a more positive light since serving in the local council entailed additional responsibilities without compensation. Moreover, conscription seems to have increased significantly after

the consolidation of the liberal state in 1867. The length of conscripts' military service could not exceed two years, but the length of service could double if they were conscripted a second time.<sup>8</sup> Before the growth of a national prison system at the turn of the twentieth century, the armed forces functioned as Mexico's first national punitive institution. Military service was supposed to "correct" the supposedly "uncivilized" Indian, but the high desertion rates made this task nearly impossible.

The burden of military service was borne primarily by the poor, and lawmakers were careful not to take too much since it could potentially violate the poor's "moral economy." As James C. Scott (1976: 11) pointed out in his classic study of peasant rebellion, "It was the smallness of what was left rather than the amount taken . . . that moved peasants to rebel." Article 10 of the 1848 National Guard Law, for example, addressed *jornaleros del campo* (agricultural workers) and miners who made less than eight pesos a month, stipulating that "every state, depending on their particular circumstances, [would] design their own regulations to make special arrangements for their military service." Members of the church, active and nonactive members of the military, urban and rural police officers, marines, government officials, doctors, surgeons, pharmacists with an open establishment, men over the age of fifty-eight, the sick, and domestic servants (*criados*) were all exempt from service. Those who were exempt were required to pay a fee that could range between two reales and fifteen pesos (*Ley orgánica* 1848). For men who were ineligible for exemption, the easiest way to become exempt from military service was to prove that they were ill or physically impaired to perform military duties. When potential conscripts suffered from physical ailments, they could pay a doctor to examine their body and provide proof that they were indeed unfit for service. However, since not all pueblos had doctors, it would have been too costly for many to travel to the nearest doctor for a medical examination. Despite the prevalence of traditional healers such as *parteras* (midwives) in Zapotec communities, the state only recognized medical doctors with training in modern medicine as legitimate medical practitioners. Additionally, men would have to leave work for at least a couple of days to be seen by a doctor in the nearest city or *cabecera* (administrative center)—exemption from military service was a costly matter and few Zapotec men could afford it. As in the rest of the colonial and settler colonial world, the burden of military service was borne primarily by rural, poor, and non-white populations.

Conscription affected entire families and women made this known to state authorities when their loved ones were taken. Married women found ways to survive financially without a spouse, but the husband's absence

certainly impacted the household economy. An 1853 case illustrates the gendered narratives women deployed to have their loved ones released from military service. In this case, Manuel Hernández of San Jerónimo Tlacoahuaya had been apprehended by the *alcalde* of his pueblo and sent to Oaxaca City to serve in the “blood contingent.” In a formal petition sent to the state authorities, Hernández’s eighty-three-year-old grandmother, named María Rosa Morales, explained that the conscription of her grandson had been a serious blow, being that he was “her only companion.” She even referred to him as her “walking stick” since he helped her move physically about her home. The grandmother tried to appeal to the authorities’ moral values by portraying him as an honorable and caring person and by portraying herself as a helpless and lonely elderly woman whose financial and physical well-being depended on her grandson. Additionally, Morales pointed to the legal reasons why her grandson should be released. She cited a *circular* (decree) issued by President Antonio de Santa Anna on 1 August of that year that exempted taxpaying Indians from military service. Attached to her petition was a letter by the parish priest, certifying that Manuel Hernández was in fact an “*indio*” from Tlacoahuaya who paid his “personal contribution” on a regular basis. In addition to being an honorable Indian, the priest continued, Hernández had been orphaned at a young age and now cared for his grandmother, who had been his caretaker since then.<sup>9</sup> As this case demonstrates, petitions from family members appealed to state authorities by highlighting the financial, emotional, and physical burden that conscription placed on the conscript’s family members. While it is difficult to assess which types of claims were more effective, it appears that the claims that highlighted the financial impact of conscription resonated the most with authorities.

When local authorities advocated on behalf of their paisanos, they also appealed to state officials by making references to the conscript’s role as a husband and father. In May 1862, for example, Silverio Mendez of the Hacienda of San Antonio Buenavista was apprehended by the authorities of San Juan Chilateca, in the neighboring district of Ocotlán. The *agente municipal* of his native community urged the state government to release Mendez on the grounds that he had been unjustly conscripted by San Juan Chilateca’s authorities to fill their local contingent. Although the state had ordered the formation of local militias to fight against the French occupation of Mexico, the *agente municipal* argued that it was unjust for municipalities to conscript residents of other municipalities for their own militias. Finally, the *agente municipal* ended his plea by pointing to the emotional suffering Mendez’s wife and four children were experiencing as a result of his unjust conscription.<sup>10</sup> As this case illustrates, Zapotecs

reinforced patriarchal and heteronormative family values by highlighting conscripted men's inability to defend their family's well-being and honor, even during moments of crisis when the state needed men urgently to defend the *patria*.

Although local authorities did advocate for their own paisanos when they were unlawfully conscripted, they were also perpetrators of injustice within their own pueblos by using conscription as a tool to intimidate and punish those who refused to pay extraordinary fees or bribes. Because council members were not in the state government's payroll, they worked outside of the council and supplemented their income with the "donations" provided by the residents of the community. In 1868, for example, the *presidente municipal* of San Marcos Tlapazola, José María Mateo, was accused of charging community residents an extra quarter real for the head tax. In September of that year, six male citizens from San Marcos appeared in the district judge's office and declared that the municipal president had been charging taxpayers in the community one real and three-quarters since he came into office in January, despite the jefe político's 4 April decree, which required male citizens to pay only one real and a half for *capitación* beginning in April. In his defense, the municipal president confessed to have been collecting one real and three-quarters since January but claimed to have been unaware of the April decree and blamed his *escribano* (scribe), Juan Juárez, for not informing him of the new tax policy. The scribe then appeared in the district court and refuted the claims made by President Mateo. He argued that as the council's scribe, he is responsible for reading all government orders and mandates and informing the municipal president of these developments, which is exactly what he did with the April decree. After the scribe's declaration, the district judge pointed out Mateo's and Juárez's contradictory statements, but both men stood firmly by their declarations. The judge found Mateo guilty of pocketing twenty-one pesos and three reales during the six-month period between April and September and sentenced him to prison. Mateo, in his defense, claimed to have collected the extra quarter of a real from taxpayers to compensate for the losses he had encountered and to cover the tax contributions of the eleven council members, who, according to Mateo, were exempt from the head tax in his community. It was not state law that exempted council members from the head tax but rather local custom. Mateo was replaced by an interim president who, along with the *alcaldes* and associates, declared in the judge's office that it was "true that, for many years, there has been an established *costumbre* in our community that exempts all council members—*alcaldes*, *topiles*, and elders—from paying the head tax, and it continues to be observed today."<sup>11</sup> While Mateo claimed that he believed all citizens of the pueblo, including the council

members, should pay the head tax, he argued that he did not require the council members to pay the head tax to avoid upsetting the community and its established customs. As this case illustrates, Zapotecs utilized the legal system to attain justice from abusive authorities within their own communities. Far from being passive victims, Zapotecs found ways to challenge local authorities when they overstepped their power. Community members understood the head tax payment as their end of a mutually beneficial pact between themselves and the Mexican state. In exchange for their tax contributions, Zapotecs expected the state to defend their rights as outlined in the state constitution, even if it meant going against members of their own community. Although it took a lot of courage for individual citizens to press charges against local authorities, most cases of abusive authorities were filed when the plaintiffs knew they had the support of their community. When individual citizens spoke up against abusive municipal authorities, they were often met with incarceration, bodily injury, or conscription. Nevertheless, this risk did not prevent people from using the legal system against abusive local authorities.

Community members who filed complaints against local authorities who pocketed money appealed to the state by claiming to care about the collection of state taxes. On 4 March 1874, for example, two residents of Macuixochitl, Rosalino Vazquez and Manuel Maria Cuevas, arrived in the district judge's office to file a complaint against their municipal president, José Antonio Cuevas. The two men claimed that the "arbitrariness" committed on a daily basis by the municipal president and councilmembers was intolerable and that their only hope was to "uproot the evil" so that the municipal rents of Macuixochitl, and the district as a whole, would not suffer. They then proceeded to list the instances when the municipal president and the council members pocketed money that was supposed to be deposited in the municipal treasury. According to their testimony, on 23 January 1874, the municipal president ordered two *regidores* and the *recaudador de los fuegos* (fireworks collector) to collect money in their pueblo, from which the president pocketed ten reales. That same month, the *regidores* collected a total of five pesos from the vendors who had set up stalls during the pueblo's annual *fiesta del dulce*. That money, however, never made it to the municipal treasury. The president had also pocketed six and a half reales that had been collected as a tax from six men who sold pulque during the fiesta, and he had also taken four pesos from the fines he had imposed on several individuals. In total, the president pocketed twelve pesos and half a real, according to the plaintiffs. After the district judge interviewed eleven witnesses who confirmed various accusations, the municipal president provided his rebuttal. First, the

president pointed out, the person in charge of the municipal funds was the regidor, Tomás Vásquez. As the regidor, Vásquez, not him, was in charge of collecting fees and distributing payments, and therefore, he was the only one who could speak about the municipal funds, according to the president. Then, he stated that the contributions that the pueblo's residents make toward the fireworks are *de costumbre* and "entirely voluntary." Since the contribution was voluntary, he argued, the residents gave the amount they were willing and able to give. He then explained that the only reason why the regidores accompany the collector when he collects the contributions for the fireworks is to reassure the contributors that those funds will indeed be used for the fireworks. The 1857 Constitution made Mexico a secular republic, which meant that local authorities could not legally demand money or labor for patron-saint celebrations, despite their importance to the community's social life. The president reassured the judge that the collection of donations for fireworks was not part of the local council's responsibilities and that those funds had "nothing to do with the council's funds." But after arguing that the funds collected for the fireworks had nothing to do with the council's funds, he acknowledged that he had borrowed one peso and half a real to purchase paper, ink, and other supplies for the council's office. He made sure to point out, however, that he planned to return the borrowed money as a civilian, not as municipal president, which called into question his "honesty" in managing municipal funds.

The president then corrected his accusers by pointing out that the *corridos de toros* (bull fights) lasted only three days and that it was not a custom to tax the vendors with stalls—it was only after the fiesta was over that the municipal authorities issued a one-eighth-real tax per stall. Then, he defended himself against the accusation that he pocketed money by admitting that he did collect money from Antonio Martínez and others for selling pulque but that the funds collected were placed in the municipal treasury. He also claimed to have demanded money from a resident named Dionicio Cuevas when he acted on behalf of one of the citizens of the pueblo, Tomás Vásquez. According to the president, Vásquez was accusing Cuevas of entering his land (*terreno*) and stealing two *carretas* (carts) of *espino*, a thorny tree that is used for firewood. The president claimed that he called Dionicio Cuevas over and made him pay Tomás Vásquez twelve reales, the cost of the espinos Cuevas had taken from Vásquez's property. The president concluded his statement by arguing that as his testimony proves, some of the accusations are false, others erroneous, but all of them "coated with slander." Finally, to dismiss the accusations, he pointed to his accusers' reputations, describing Rosalino Vásquez and Manuel María Cuevas as men of "poor conduct" who had been jailed in the past. Although







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