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FREE WOMB LAW, LEGAL ASYNCHRONIES, AND MIGRATIONS: *Suing for an Enslaved Woman's Child in Nineteenth-Century Río de la Plata*

ABSTRACT: This article analyzes in depth the history of Petrona, an enslaved woman sold in Santa Fe (Argentina), sent to Buenos Aires and later possibly to Montevideo (Uruguay). By reconstructing her case, the article demonstrates how the legal status of enslaved persons was affected by the redefinitions of jurisdictions and by the forced or voluntary crossings between political units. This study also shows the circulation and uses of the Free Womb law in Argentina and Uruguay and traces legal experts' debates over its meaning. At the same time, it reflects on the knowledge enslaved people had of those abolitionist norms and how they used them to resist forced relocations, attempt favorable migrations, or achieve full freedom. The article crosses analytical dimensions and historiographies—legal, social, and political— and articulates them by reflecting more broadly on these factors: the impact of the revolution of independence on enslaved persons' lives, the scarce circulation of abolitionist public discourse in Río de la Plata, the gendered bias of the process, and the central yet untold uses of antislavery rhetoric in the national narratives.

KEYWORDS: free womb law, abolition, Río de la Plata, legal debates, slavery

In January 1823, through a proxy, Ana Monterroso, "vecina of Buenos Aires" bought an enslaved woman named Petrona in the city of Santa Fe (Argentina) in January 1823.[1] When the transaction was completed, Petrona, who was "18 to 20 years old," was sent to Buenos Aires. Soon after receiving the enslaved woman, her mistress began to organize their move to Montevideo, which was under Brazilian control at the time. Petrona, who had

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1. Departamento de Estudios Etnográficos y Coloniales [hereafter DEEC), Santa Fe (Argentina), Escrituras Públicas, tomo 24.

apparently not offered resistance to being transferred to Buenos Aires, now feared and opposed this new and unexpected relocation. A bitter conflict was unleashed between Petrona and her mistress, and the dispute was brought to court. At the center of the conflict was the fact that Petrona was pregnant and the gradual abolitionist laws standing in Buenos Aires were not current in Montevideo.

The political context of the legal battle is key to understanding the logic and importance of Petrona's case. The breaking of the colonial bond in Spanish America resulted in a process of redefinition of borders and the creation of new political units. A number of new republics were born from the ashes of the old viceroyalty of Río de la Plata: Argentina, Uruguay, Paraguay, and Bolivia. In this course of events, Buenos Aires and Montevideo, for many years parts of the same unit, became centers of different political projects. Both the two cities and their surrounding regions transformed their imperial alliances in a very short period of time, introduced multiple legal innovations, and adopted diverse policies on slavery and abolition.

Studies on the process of state formation in Argentina and Uruguay have barely addressed the role slavery played in it.[2] Likewise, research on slavery and abolition in the region has seldom exceeded national frames and has given scant notice to the role of legal asynchronies and migrations in enslaved persons' strategies and fates.[3] This essay examines the (re)configuration of jurisdictions between the

2. On state formation in Argentina, see, among others, José Carlos Chiaramonte, "Acerca del origen del estado en el Río de la Plata luego de 1810," *Anuario del IEHS Prof. Juan C. Gross* 10, 1995 [Anuario of the Instituto de Estudios Histórico-Sociales, Facultad de Ciencias Humanas, Universidad Nacional del Centro, Tandil, Argentina]; José Carlos Chiaramonte, *Ciudades, provincias, estados: orígenes de la nación Argentina (1800–1846)*, (Buenos Aires: Ariel, 1997); Oscar Oszlak, *La formación del estado argentino: orden, progreso y organización nacional* (Buenos Aires: Planeta, 1991); and Tulio Halperin Donghi, *Revolución y guerra. Formación de una élite dirigente en la Argentina criolla* (Buenos Aires: Alianza Editorial, 1994). On Uruguay, see Ana Frega, coord., *Uruguay I. Revolucion, independencia y construcción del Estado* (Montevideo: Editorial Planeta-MAPFRE, 2015); Tulio Halperín Donghi, *Reforma y disolución de los imperios ibéricos (1750–1850)*, (Madrid: Alianza, 1985); and Ana Ribeiro, "De las independencias a los estados republicanos (1810–1850)," in *De las independencias iberoamericanas a los estados nacionales (1810–1850)*, Ivana Frasquet and Andréa Slemian, eds. (Madrid and Frankfurt: Iberoamericana/Vervuert, 2009), 61–87.

3. On gradual abolition in the Argentinean case, see Hebe Clementi, *La abolición de la esclavitud en América Latina* (Buenos Aires: La Pléyade, 1974); George Reid Andrews, *Los afroargentinos de Buenos Aires*, (Buenos Aires: Ediciones de la Flor, 1989), 58–68; Silvia Mallo and Ignacio Telesca, eds., *'Negros de la Patria'. Los afrodescendientes en las luchas por la independencia en el antiguo Virreinato del Río de La Plata* (Buenos Aires: Editorial SB, 2010); Magdalena Candioti, "Abolición gradual y libertades vigiladas en el Río de la Plata. La política de control de libertos de 1813," *Corpus: Archivos de la Alteridad Americana,* 6:1 (2016), https://doi:0.4000/corpusarchivos.1567; Candioti, "El tiempo de los libertos. Conflictos y litigación en torno a la ley de vientre libre en el Río de la Plata (1813–1860)," *História* [São Paulo] 38 (2019), http://dx.doi.org/10.1590/1980-4369e2019001; Paulina L. Alberto, "Liberta by Trade: Negotiating the Terms of Unfree Labor in Gradual Abolition Buenos Aires (1820s–30s)," *Journal of Social History* 52:3 (Spring 2019): 619–651, https://doi.org/10.1093/jsh/shy035; and Erika Edwards, "Mestizaje, Córdoba's Patria Chica: Beyond the Myth of Black Disappearance in Argentina," *African and Black Diaspora: An International Journal* 7:2 (June 2014), http://dx.doi.org/10.1080/17528631.2014.909120. On abolition in Uruguay, see Alex Borucki, *Abolicionismo y tráfico de esclavos en Montevideo tras la fundación republicana (1829–1853)* (Montevideo: Biblioteca Nacional, Universidad de la Republica, 2009). In fact, this book is a kind of exception, since Borucki's analysis establishes a constant dialogue between abolitionist policies on both sides of the estuary.

future Argentina and Uruguay and the legal asynchronies in abolitionist policies that it produced. It is an important investigation for multiple reasons. First, the Free Womb law—one of the main gradual abolitionist laws, dictated by the United Provinces of the Río de la Plata in 1813—spawned multiple legal battles and legal experts' debates that proved central to both the way slavery ended in the region and the way freedmen's lives were regulated. Second, antislavery policies were used in the images those new nations built of themselves, and of each other. Third, the trajectories and strategies of enslaved persons living in nineteenth century Río de la Plata were shaped by forced and voluntary migrations between those spaces ruled under different legal frames.

Petrona's case will be analyzed in detail since it represents a valuable opportunity to describe simultaneously the social, political, juridical, and geopolitical complexities surrounding the process of abolition in Río de la Plata. For that purpose, the article will first present the Argentine laws of gradual abolition sanctioned after the revolution of independence, beginning in 1810 with the expulsion of the Spanish authorities and the creation of a *criollo* government. Second, it will reconstruct key features of Petrona's life as a slave in Santa Fe. Further on, the meanings of trans-regional migrations and interprovincial slave trade (after the transatlantic slave trade ban) will be explored.

The details of the judicial case will be discussed in the following section, stressing the contrast between Argentine and "Oriental" legislation.[4] Two further turns in the case are worth exploring: the mistress's identity and political commitments in the complex Rioplatense context, and the statement of Petrona's defender in court.[5] The latter will be analyzed in detail, since it presents an original interpretation of the meanings and scope of the Argentine Free Womb law. Finally, the article presents an evaluation of the gradual abolition process in the light of Petrona's case. The conclusions underline the scarce circulation of abolitionist public discourses in the Río de la Plata, the gendered bias of the process, the importance of enslaved persons' struggles for freedom, and the central but untold uses of the antislavery rhetoric in the national narratives.

A LEGAL FRAMEWORK FOR ABOLITION

After centuries of relative stability in the regulation of enslaved peoples' lives, the revolution for independence introduced important changes in the laws

4. "Oriental" was the demonym used by the inhabitants of the so-called Oriental Province, in the eastern part of the Río de la Plata.

5. On the role of Defender of the Poor in colonial and early republican Buenos Aires, see Lucas Rebagliati, "Pobreza, caridad y justicia en Buenos Aires: los defensores de pobres (1776–1821)" (PhD diss [History]: Facultad de Filosofía y Letras, Universidad de Buenos Aires, 2016).

concerning slavery and abolition, and slowly brought this institution to an end.[6] Two central rules formed the local abolitionist tandem: the prohibition of the slave trade, dictated in 1812, and the law "declaring the slaves' children free," in February 1813.[7] The government reiterated the validity of both laws in successive proto-constitutional documents until 1853, when a national constitution was adopted. Throughout those years, a succession of "fine-print" and ad hoc legislation gave nuance to the alleged humanist spirit of these two laws and reinforced the disposition to control the lives of former slaves.

The prohibition of trafficking, in its first and radical formulation, established that "all slaves from foreign countries who in any way enter from this day forward are free by the mere fact of stepping on the territory of the United Provinces."[8] In this way, the country adopted the principle of "free soil," that is, the idea that slaves would be freed as soon as they set foot in the new republic.[9] Even though the slave trade ban was never contested (in the case of Buenos Aires, from the

6. On this kind of link between jurisdictional changes and the determinations of free and slave status in other contexts, see Ira Berlin, "Time, Space, and the Evolution of Afro-American Society on British Mainland North America," *American Historical Review* 85:1 (February 1980): 44–78; Rebecca Scott, "Paper Thin: Freedom and Re-enslavement in the Diaspora of the Haitian Revolution," *Law and History Review* 29:4 (November 2011): 1061–1087; Martha Jones, "Time, Space, and Jurisdiction in Atlantic World Slavery: The Volunbrun Household in Gradual Emancipation New York," *Law and History Review* 29:4 (November 2011): 1031–1060; Rebecca Scott and Jean Hebrard, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation* (Cambridge and London: Harvard University Press 2012); Ada Ferrer, "Haiti, Free Soil, and Antislavery in the Revolutionary Atlantic," *American Historical Review* 117:1 (February 2012): 40–66; and Kerry Kennington, "Law, Geography, and Mobility: Suing for Freedom in Antebellum St. Louis," *Journal of Southern History*, 80:3 (August 2014): 575–604.

7. The Free Womb law and the slave trade ban constituted (from the late eighteenth century in the United States through the Spanish American revolutions and the Cortes of Cádiz) the gradual path of abolition discussed and preferred by the elites throughout the Atlantic world. Free Womb laws particularly were thought of as a strategy capable of reconciling existing rights of property with the aspirations of the enslaved for emancipation. On gradual abolition in the United States of America, see, among others, Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and "Race" in New England, 1780* (New York: Cornell University Press, 1998). On Spanish America, see Rebecca Scott, *Slave Emancipation in Cuba* (Pittsburgh: University of Pittsburgh Press, 2000); Christopher Schmidt-Nowara, *Slavery, Freedom, and Abolition in Latin America and the Atlantic World* (Albuquerque: University of New Mexico Press, 2011); and Alex Borucki, *Abolicionismo y tráfico de esclavos*. On the later case of Brazil, see Sidney Chalhoub, *Visões da liberdade: uma história das últimas décadas da escravidão na Corte* (São Paulo: Companhia das Letras, 1990); Keila Grinberg, *LIBERATA: a lei da ambiguidade as ações de liberdade da Corte de Apelação do Rio de Janeiro no século XIX* (Rio de Janeiro: Centro Edelstein de Pesquisas Sociais, 2008); Beatriz Mamigonian, *Africanos libres. A abolição do tráfico de escravos no Brasil* (São Paulo: Companhia das Letras, 2017); and Wlamyra de Albuquerque, *O jogo da dissimulação. Abolição e cidadania no Brasil* (São Paulo: Companhia das Letras, 2009).

8. *Registro Oficial de Leyes de la República Argentina* [hereafter *RORA*], Buenos Aires, Imprenta La República, 1879, 194.

9. On the principle of "free soil" established in other contexts, and its implications, see the dossier coordinated by Keila Grinberg in *Slavery & Abolition: A Journal of Slave and Post-Slave Studies* 32:3 (2011); Sue Peabody, *'There Are No Slaves in France': The Political Culture of Race and Slavery in the Ancien Régime* (New York: Oxford University Press, 1996); Sue Peabody, "La question raciale et le 'sol libre de france': l'affaire Furcy," *Annales: Histoire, Sciences Sociales* 64:6 (2009): 1305 –1334; and Ada Ferrer, "Haiti, Free Soil, and Antislavery in the Revolutionary Atlantic," *American Historical Review* 117:1 (February 2012): 40–66. In a similar way, this principle was considered to have been established from 1772 in Great Britain's jurisprudence. The Somerset case declared free a slave defended by a group of abolitionists; the slave was taken from Boston to England by his master and fled after two years. See David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1779–1823* (New York: Oxford University Press, 1999), 470–520.

moment it was enacted in 1812), the validity of the "free soil principle" was.[10] The adoption of this rule, also called the "freedom principle," gave rise to diplomatic conflicts with the court in Rio de Janeiro, which worried about the recognition of free status for runaway slaves from Brazil. The unease of the Portuguese was communicated to the Argentinean government by the British authorities.[11] Once known, it led to a subsequent limitation on the beneficiaries of the law.[12] In January 1814, the constituent assembly explicitly excluded fugitive slaves and foreign citizens' servants from the possibility of being declared free merely by "stepping on the soil of the Provincias Unidas." *El Redactor de la Asamblea,* the newspaper that accompanied and commented on every session of the Assembly of the Year XIII, explained "the true spirit of that law [the original one of February 4, 1813, declaring "free soil"].[13] The law "should be understood for those who are introduced by trade or sale against the prohibitive provisions . . . and in no way for those running away from those countries, nor for those introduced in these provinces by foreign travelers as servants."[14]

The second law, known later as the Free Womb law, also had a radical first formulation and subsequent limitations. In 1813, within the framework of the first constitutional congress for the United Provinces of the Río de la Plata, slave children born after January 31 of that year were declared "free" persons.[15] This provision would be quickly followed, in the same year, by the so-called "Regulation for the education and exercise of the freedmen." The change in wording from "free" to "freed," far from being casual or innocuous, was deliberate and harmful for the lives of hundreds of enslaved women's children. Those children, now "freed," would be put under the patronage of their

10. It is important to point out that the slave trade ban was effective in the port of Buenos Aires, but not in Montevideo, where ships and illegal traffic continued until the 1850s. See Borucki, *From Shipmates to Soldiers: Emerging Black Identities in the Río de la Plata* (Albuquerque: University of New Mexico Press, 2015), chapt. 1.

11. See Ana Frega, Alex Borucki, Karla Chagas, and Natalia Stalla, "Esclavitud y abolición en el Río de la Plata en tiempos de revolución y república," *Memoria del Simposio: La ruta del esclavo en el Río de la Plata: su historia y sus consecuencias* (Montevideo: UNESCO, 2005).

12. On reclamations and pressures by Luso-Brazilian authorities, see Keila Grinberg, "Escravidão, alforria e direito no Brasil oitocentista: reflexões sobre a lei de 1831 e o 'principio da liberdade' na fronteira sul do Impero brasileiro," in *Nação e cidadania no Impero: novos horizontes,* José Murilo de Carvalho, org. (Rio de Janeiro: Editora Civilização Brasileira -Record Ltda., 2007), 274–275; and Joseph Younger, "'Naturals of This Republic': Slave Law, Sovereignty, and the Legal Politics of Citizenship in the Río de la Plata Borderlands," *Law and History Review* 30:3 (November 2012): 1845–1864.

13. The chronicles of *El Redactor de la Asamblea* have gained relevance, since the assembly's records of the debate are lost.

14. *El Redactor de la Asamblea* 19, January 31, 1814, 73. Twenty years later, the commercial trading of those foreign citizens' servants would be authorized, provided that a certain number of years of residence had passed prior to the trade. These rulings made the prohibition more flexible, but policies, such as the signing of a treaty with England banining the slave trade in 1839, reinforced the commitment to the end of the traffic. See "Tratado entre la Gran Bretaña y la Confederación Argentina para la abolición del tráfico de esclavos," *RORA*, 1840, no. 2765, 36–53.

15. The decree held that it was". . . as dishonorable as outrageous to mankind, that in a People walking with such tenacity and effort towards its freedom, children remain in slavery"*RORA*, tomo 1, 194.

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mothers' masters, and would not fully enjoy their freedom until the age of 16 in the case of women, and 20 in the case of men.[16] Their legal status was comparable in many ways to slavery, since patronage gave masters the right to demand free services from the minors—once they had turned two years old their services (and, indirectly, their persons, as George Reid Andrews has highlighted) could be sold, bought, and inherited.[17]

The traditional regulation of slavery (or serfdom) in the Spanish world had its bases in the Institutes, the compilation of legal thought ordered by the sixth-century Roman emperor Justinian that established the basis for a large portion of Western jurisprudence. The Siete Partidas—the most significant body of law produced by the Spanish monarchy— was inspired by Roman law and embraced those principles, dividing "people" into "slaves" and "freemen." Among the latter, it differentiated the "*ingenuos*" (free-born) from "*libertos*" (freedmen). There were significant differences, since in this legal tradition, libertos were considered to have been "redeemed" from a "just servitude," that is, as manumitted persons.[18]

Manumission, paid or gratis, had been the main means by which slaves reached freedom in the Spanish world for centuries. In the Roman legal tradition, and later the Spanish, manumission was conceived of as a master's right: masters had the power of *giving* civil life to their servants who, thus, owed them their freedom. Thatfreedom was considered "granted," and former slaves were considered debtors of their ex-masters. "Patronage" was the legal institution that framed their relationship and the series of duties those "manumitted" persons had toward their "benefactors".

According to nineteenth-century legal doctrine, the legal provisions that established that freed persons owed a debt of gratitude and service to their

16. For an analysis of the policy and its statistical impact, see Andrews, *Los afroargentinos,* 58–68. On the legal status, see Liliana Crespi, "Ni esclavo ni libre. El estatus del liberto en el Río de la Plata desde el periodo indiano al republicano," in *'Negros de la Patria,'* Mallo and Telesca, eds. For an analysis of the Regulation, and its logic and consequences, see Candioti, "Abolición gradual y libertades vigiladas." For its judicial uses, see Alejandro Castro, "Un largo camino hacia la libertad. Problemas en torno a la situación de los libertos a partir de la sanción de la ley de libertad de vientres de 1813 y su acceso a la libertad. 1813–1833" (Licenciatura thesis: Facultad de Filosofía y Letras, Universidad de Buenos Aires, 2009); and Candioti, "El tiempo de los libertos." For an interesting reconstruction of a singular use of this figure and the negotiations around it, see Alberto, "Liberta by Trade."

17. See Archivo General de la Nación Argentina [hereafter AGN A], Sala IX, 23-8-4, Administrative, File 30, doc. 1020, IX, 39-8-4, 1815, and 23-8-3, 1813. These documents are analyzed in Magdalena Candioti, "Altaneros y libertinos. Transformaciones del estatus jurídico de los afroporteños en la Buenos Aires revolucionaria," *Desarrollo Económico* 50:198 (2010): 271–296.

18. For a detailed description of legislation on slavery in colonial law, see Manuel Lucena Salmoral, *Los códigos negros de la América Hispana* (Alcalá de Henares: Ediciones UNESCO/Universidad de Alcalá, 1996); Carolina González Undurraga, "Estudio introductorio," *Esclavos y esclavas demandando justicia, Chile, 1740–1823. Documentación judicial por carta de libertad y papel de venta,* Introduction and transcription of sources by González Undurraga (Santiago de Chile: Editorial Universitaria, 2014); and Rebagliati, *Pobreza, Caridad*.

former masters were "desacostumbradas" (no longer customary) in the age of revolution.[19] Nevertheless, those alleged freedmen's duties were confirmed and reinvigorated by the Rioplatense *Reglamento para la educación y ejercicio de los libertos* (Regulations for the Education and Exercise of Freedmen). This document established that libertos, that is freed persons, had to recognize and pay an alleged "debt" to their mother's masters, their patrons. The powers and rights conferred on patrons functioned as a kind of compensation that children had to pay for their freedom, with their bodies, time, and work. The argument used to legitimize the idea of an existing "debt" was that patrons had to face the cost of feeding and raising those newborn babies and children—it was their later free work that would cover those expenses. The implicit assumption, however, was that slaveholders of enslaved pregnant women would have no incentives to protect the delivery of their slaves' offspring, nor to assume any responsibility for their care during their early stages of life.[20]

As a result of this *Reglamento*, the freedom of enslaved women's children was deferred and limited. Thousands of Afro-descendants would be born and live under their mothers' slaveholders' patronage until total abolition.

PETRONA, ENSLAVED WOMAN FROM SANTA FE

Petrona's trail started in the small town of Santa Fe, where she was born in the early 1800s. We know she was creole and considered *parda*. Her seller, don Gabriel Lassaga Echagüe, had bought her through a "judicial purchase."[21] We lack records of this purchase, but Lassaga may either have bought Petrona

19. That was the opinion of the influential jurist José María Álvarez. See Gabriel Entin and Magdalena Candioti, "Liberté et dépendance pendant la révolution du Río de la Plata. Esclaves et affranchis dans la construction d'une citoyenneté politique (1810–1820)," *Le mouvement social* 250/1 (2015) : 71–91, https://doi.org/10.3917/lms.252.0071; and the section "Libertos and Patronage in the Rioplatense Juridical Debate," in this article.

20. Indeed, the high mortality among freed babies during those years attracted the attention of the press (for example, *La Gaceta de Buenos Aires* 55, May 11, 1816, and *La Prensa Argentina*, 23, February 20, 1816). Some scholars have examined this demographic change without attributing it to the lack of masters' care. See George Reid Andrews, *Los afroargentinos*; Marta Goldberg, "La población negra y mulata de la ciudad de Buenos Aires, 1810–1840," *Desarrollo Económico* 16:61 (April-June 1976); and Florencia Guzmán, ¡Madres negras tenían que ser! Maternidad, emancipación y trabajo en tiempos de cambios y transformaciones (Buenos Aires, 1800–1830), Tempo | Niterói | Vol. 24 n. 3 | Sept./Dic. 2018: 451–473. It is possible to find signs of masters' reluctance to take care of children no longer destined to be their slaves in some lawsuits. See AGN A, Sala IX, 23-8-4, Administrativos, leg. 30, exp. 1020, and Sala IX, 39-8-4, 1815 and AGN A, 23-8-3, 1813. "Altaneros y libertinos", Candioti. But the impact of careleness on the part of patrons on freed babies' mortality needs in-depth study, in demographic terms.

21. Lassaga Echague was one of the sons of Gabriel de Lassaga, a Basque-Navarrese who arrived in Santa Fe in 1760. He quickly integrated himself into the local elite by marrying Francisca Micaela Javiera Echagüe and Andía, a member of one of the oldest and richest families of the city. From the end of the colony to 1824, he held, repeatedly, positions in the cabildo such as *procurador*, *alcalde de segundo voto* (mayoral officer in charge of civil issues), and served as elector in several governmental elections. See the Archivo General de la Provincia de Santa Fe, Actas Capitulares, several volumes.

while he was a member of the cabildo or obtained her when he served as executor of his uncle Simón de Avechuco Retana's will.[22]

Even though Petrona's biography is difficult to reconstruct, we can draw a panorama of her Santa Fe slave world between the end of the colonial order and the first republican decades.[23] By then, the city had more than 6,000 inhabitants, of which nearly half were "*pardos* o *morenos*."[24] Slightly more than 10 percent of the city's inhabitants were defined as slaves.[25] In the urban space, the enslaved were mainly engaged in domestic tasks and some (especially males) performed skilled labor as shoemakers, blacksmiths, silversmiths, and masons, along with their masters, if they were craftsmen. Except for a few families and convents, large slaveholdings were not predominant.[26]

Enslaved men and women and their children were born, lived, and remained under the control of the same masters throughout their lives. As happened in other provinces, along with the systematic and inevitable commodification of the offspring of the enslaved, the market of captives was activated by three extraordinary phenomena: bankruptcy, death, or migration of masters. While the pages of the notarial records are filled with the executions of the masters' wills or the payments of debts, the fate of hundreds of Africans and Afro-descendants was being defined without their consent. Migrations and trips were the other main catalysts of the market. Travelers, merchants, and officials who visited the

22. Judgment on accounts of the management of property belonging to the will of Simon Avechuco between don Gabriel de Lassaga and doña Micaela de Echague, DEEC, Expedientes Civiles, vol. 54, doc. 79, 1806; Gabriel Lassaga versus the Testament of Simon de Avechuco, DEEC, Expedientes Civiles, vol. 55, doc. 102, 1807; Gabriel Lassaga versus the Testament of Avechuco for money collection, DEEC, Expedientes Civiles, doc. 196, 1812. We are not interested here in reviewing the enormous conflicts that lasted for years between Lassaga, his aunt, and his cousins around this testament, nor in judging the good or bad actions of the executor. Here we pay attention only to the administration of the estates' slaves.

23. There are no colonial censuses of population available, only a general register of the city, elaborated between December 1816 and January 1817, in republican times.

24. In Río de la Plata, the label "*moreno*" was a synonym of "black." Both expression were used by authorities, but 'moreno' was more frequent in self-identifications than 'black.' Something similar occurred with the labels '*pardo*' and '*mulato*', with the first being the one colored populations used for self-identification. Pardo suggested mixed race, which could include diverse combinations of African, indigenous, and even European ancestry. On these classifications, see Judith Farberman and Silvia Ratto, coords., *Historias mestizas en el Tucumán colonial y las pampas (siglos XVII-XIX)* (Buenos Aires: Biblos, 2009); and Florencia Guzmán, "Performatividad social y (sub)categorías coloniales. Mulatos, pardos, mestizos y criollos en tiempos de cambios, guerra y política, en el interior de la Argentina," in *Cartografías afrolatinoamericanas. Perspectivas situadas para análisis transfronterizos,* Florencia Guzmán y Lea Geler, eds. (Buenos Aires: Biblos, 2017), 57–83.

25. The great majority of Africans living in Santa Fe were enslaved persons. As in other parts of Spanish America, the term '*criollo*' for the enslaved means born in the Americas. On the enslaved population in Santa Fe, see Magdalena Candioti, "Hacia una historia de la esclavitud y la abolición en la ciudad de Santa Fe, 1810–1853," in *Cartografías afrolatinoamericanas II. Perspectivas situadas desde la Argentina,* Florencia Guzmán, Lea Geler, and Alejandro Frigerio, eds. (Buenos Aires: Biblos, 2016).

26. In the inventories of goods and other property of the city, there are no records of large batches of slaves, except for the testamentary of the first governor of the province, who left around 50 slaves. Archivo de la Junta Provincial de Estudios Históricos (Santa Fe), Caja "Documentos de Francisco Antonio Candioti," 054-0342-ARG-JPEH-AH-FAC.

city arrived with their servants and sometimes sold them there. Other foreigners bought local slaves and took them away. That was true in the case of Petrona, who changed masters first because of the death or bankruptcy of her master, and later because of a foreign neighbor's request.

Petrona was creole, but not all the slaves living in Santa Fe were. In 1816, four years after the slave trade ban, around 15 percent of the enslaved living in the city had been born in Africa and bought in what was called a "first introduction." They had arrived either directly from Africa to Buenos Aires, or had been taken to Brazil first and from there to the ports of Montevideo or Buenos Aires. From those cities, they had been later traded to the inner provinces: Chile, Paraguay, and Upper Peru.[27] From the creation of the viceroyalty in 1776 until the abolition of transatlantic traffic in 1812, enslaved Africans entered the ports of Río de la Plata at a rate of 2,000 individuals a year.[28] In the notarial records of Santa Fe there are few references to these purchases, which were made in Buenos Aires or Montevideo. Nevertheless, the census of 1816–17 reveals the existence of more than 100 Africans (Angola and Guinea) living in the city. Priests in charge of consecrating marriages also registered the presence of free or enslaved Africans classified as Mina, Mozambique, Casanche, and Congolese.[29]

This was the context of Petronas's life. She was a domestic servant, and most probably lived near her family and with other slaves who were in a similar position. Her sale to a *porteño* neighbor broke all her routines and ties. Being expatriated involuntarily could be one of the harshest dangers for an enslaved person, and could also be a way of punishment. Lassaga, Petronas's master, could have sold her as a sanction for being pregnant. It is also possible Petrona was a victim of sexual violence from her master, so the relocation might have meant some sort of relief to her. In any case, there is no information about who the father of her child was, whether the pregnancy was the result of a forced or consented relationship, or if her master knew about her pregnancy at the moment of selling her to a porteña in Santa Fe.

INTERPROVINCIAL SLAVE SALES

The interprovincial transaction could also be read in a broader context and gain, under that consideration, new significance. Interprovincial slave purchases, as the

27. Carlos Sempat Assadourian, "El tráfico de esclavos en Córdoba (1588–1610)," *Cuadernos de Historia* [Córdoba] 32 (1965); "El tráfico de esclavos en Córdoba: de Angola a Potosí, siglos XVI–XVII," *Cuadernos de Historia* 36 (1966).

28. Borucki, *From Shipmates to Soldiers*.

29. From that census, of which information was kept for three out of the four existing districts, it is possible to learn that there were at least 46 Africans classified as Guinea, 48 as Angola, 1 as Mina, 1 as Mozambique and 1 as "African" without any specification. See Candioti, "Hacia una historia".

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one Monterroso made, had been frequent since colonial times. However, due to the closure of the Atlantic slave trade on the western side of Río de la Plata (today Argentina) in 1812, the internal, and even external, redistribution of slave labor acquire a new meaning. Although this process has yet to be reconstructed systematically and statistically, it is possible to perceive two factors that stimulated it. On the one hand, there were the relative scarcity of labor and the differences in the prices of slaves between Buenos Aires and the rest of the provinces.[30] On the other hand, some masters' intentions of avoiding abolitionist laws, especially the Free Womb law, acted as an extra incentive to those transactions.

Since the revolution and the outbreak of war, the Buenos Aires labor market, both free and captive, had become more complex. The labor shortage, the difficulties in controlling territory, and the state's aggressive policy of recruiting free males and "rescuing" enslaved men for the army reduced the supply of free and captive workers. War and territory made it difficult to stabilize the workforce in general.[31] The difficulties that elites, artisans, and merchants had in finding enslaved workers to buy are especially evident in the newspaper advertisements seeking slaves. By the mid 1820s, announcements seeking enslaved persons available for purchase promised freedom after four or five years of service. It was a way of stimulating enslaved people to change masters.[32]

In this context, Santa Fe, as well as other provinces of the so-called "interior" of Argentina, may have functioned as small marketplaces capable of supplying slave labor after the end of the transatlantic slave trade. Many advertisements in the *Gaceta Mercantil* of Buenos Aires offered slaves "just arrived" from Santa Fe, Tucumán, or Mendoza. Doña Ana Monterroso's decision to buy a servant in a small town 500 km north of Buenos Aires, a metropolis with more than 50,000 inhabitants and thousands of captives, may have been influenced by

30. On the transformation of the labor market, see Jorge Gelman, "El mundo rural en transición," in *Nueva historia Argentina, tomo 3, Revolución, república, confederación, 1806–1852,* Noemí Goldman, dir. (Buenos Aires: Sudamericana, 2000); and Jonathan Brown, *Historia socio-económica de la Argentina: 1776–1860*. (Buenos Aires: Sudamericana, 2002).

31. On militarization after the revolution, see Tulio Halperin Donghi, *Revolución y guerra;* Alejandro Rabinovich, "La militarización del Río de la Plata, 1810–1820, Elementos cuantitativos y conceptuales para un análisis," *Boletín del Instituto de Historia Argentina y Americana "Dr. Emilio Ravignani"* 37 (2012): 11–39. On blacks' militarization, see Andrews, *Los afroargentinos*, chapt. 7; and Peter Blanchard, *Under the Flags of Freedom: Slave Soldiers and the Wars of Independence in Spanish South America* (Pittsburgh: University of Pittsburgh Press, 2008). For descriptions of the enslaved population in Buenos Aires, see Marta Goldberg and Silvia Mallo, "La población africana en Buenos Aires y su campaña. Formas de vida y de subsistencia (1750–1850)," *Temas de África y Asia* 2 (1993): 15–69; and Golberg and Mallo, "Trabajo y vida cotidiana de los africanos de Buenos Aires (1750–1850)," in *Afroamérica, la tercera raíz* Julián Andrés Gallego (ed.) (Madrid: UNESCO, 2005).

32. Notarial records show how these arrangements were put into paper once the purchase was completed. AGN A, Escribanías, several volumes.

Buenos Aires's shrinking market of enslaved people.[33] Not only Doña Monterroso but also Juan Manuel de Rosas, the caudillo who ruled Buenos Aires and led the Argentine Confederation between 1829 and 1852), and his cousin Juan José Anchorena, purchased slaves in Santa Fe during those years.[34]

On the other hand, those interprovincial sales may have hidden the intention of evading gradual abolitionist laws, by selling freed persons as slaves.[35] Two examples help to illustrate this kind of strategy. In 1833, Simón Escobar, a law student from Tucumán, tried to sell one of his mother´s servants in Buenos Aires. The transaction was organized, but the purchaser decided not to buy the enslaved woman since she claimed to be free before the notary. Her name was also Petrona and her last name was Salvatierra, as was Escobar's mother's last name..[36] Therefore, Escobar went to court to assert his ownership. He presented a series of witnesses that unanimously claimed they recognized the slave as Escobar's property, and stated that to their knowledge she had not been emancipated. Petrona Salvatierra, for her part, declared she had never seen those witnesses and that she knew she was free because the Defender of the Poor, back in Tucumán had told her so, when her mistress (Escobar's mother) wanted to sell her. The interprovincial transfer of this Petrona was part of her mistress's strategy to prevent her from being able to assert her freedom and to prove it.

For men and women who often did not know when they were born and how old they were, it was difficult to ascertain and certify their status as freedmen (persons born after the Free Womb law). This vulnerable condition, and the subsequent danger of illegal enslavement, increased when minors no longer lived with their parents and had no guardians but their patrons, that is, their mothers' masters. In the case of Petrona Salvatierra from Tucuman, the suspicion of dishonest enslavement, far from triggering a strong action on the part of her defender in Buenos Aires, led to an agreement with the master to send her "to the town where there are people who know her, who saw her birth and [know] where her baptismal record is."[37] Baptismal records were key pieces since they were usually

33. See Andrews, *Los afroargentinos*; Lyman Johnson, *Los talleres de la revolución* (Buenos Aires: Prometeo, 2013); and Goldberg, "La población negra," 75–99.

34. DEEC, Santa Fe, Escrituras Públicas, tomo 24. Jorge Gelman indicates the existence of Santa Fe slaves among the 33 declared by Rosas in 1826. Gelman found that from the middle of the next decade, many of them were registered as salaried employees on the same ranches, which were functioning almost without slaves by then. Jorge Gelman, "El fracaso de los sistemas coactivos de trabajo rural en Buenos Aires bajo el rosismo, algunas explicaciones preliminares," *Revista de Indias* 59:215 (1999): 131–132.

35. The practice of selling free people as slaves was very common in the Americas before the gradual abolitionist laws. The particularity of the cases discussed here is that they affected particularly libertos so defined by the Free Womb law, that is, allegedly born after January 31, 1813.

36. Petrona was a very popular name at the time, and it was very common among enslaved women.

37. AGN A, Tribunal Civil, E–9, 1832–1833, Escobar, Simón, solicitando información de testigo para acreditar que una esclava es de su madre.

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the only way to determine who was enslaved and who was not. Without them, free or freed persons had difficulty establishing their status. So it was not easy for an enslaved girl to know her birth date and defend her freedom. Had her mistress not tried to sell her, Petrona Salvatierra would have died in Tucumán without knowing she was free. Indeed, it is difficult to know if she returned to her town and whether her status, life, and working conditions changed.

Interprovincial movements also marked the life of another enslaved woman, Isabel. Born in the convent of Santo Domingo de La Rioja, natural daughter of Feliciana, an enslaved woman of the Convent of Predicadores, Isabel had lived with the Dominicans until she was sent to serve don Manuel Antonio Blanco. When he died, the executor sent Isabel to Córdoba to settle the debts of the deceased. Once there, she fled and spent two years living on her own. When her new master, don Mariano Fragueiro, was finally able to "capture" her in Buenos Aires, he sent her to the public jail. He also initiated a lawsuit, because the girl claimed she was free. She argued that she could prove it with many witnesses and that "she had been enslaved only because of her ignorance."[38] The judge sent her to a neighbor's house until the matter could be clarified.

Isabel's situation seemed identical to Petrona Salvatierra's case: two young girls of color who did not know their exact date of birth, living as slaves, being relocated in the territory of the Río de la Plata. The outcome of their cases, nevertheless, was different. First, Isabel's master—unlike Salvatierra—actually ignored her status. His interest in knowing it was monetary: if she was not a slave, he could reclaim his debt be paid by the executor otherwise. Second, Isabel "confessed" later, before the judge, that she was not free. She asserted that she had declared so following "wrong advice." That lie was the reason she had run away and done nothing to prove her freedom. So, in the case of Isabel, her mobility in the territory was at first the consequence of her master's death, but it later became part of a personal strategy to escape from servitude. It was not her slaveholder who relocated her in order to keep her enslaved but Isabel herself, who traveled to a different city to live on her own and, if possible, see her freedom legitimized. Third, after several months without her services, Fragueiro wrote to a proxy in La Rioja requesting the baptismal record of the young woman. It was learned that she had been born in 1810, and registered as a slave.

Isabel's strategy failed, but her words give us important clues to understand her experience. She declared that "she served the Dominicans *but she did not know*

38. AGN A, Tribunal Civil, F–11, 4–1834 -1835; fol. 4, Fragueiro, Mariano, contra Torres, Lorenzo, por esclavas, sobre si la parda Isabel es o no liberta.

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whether she was a slave, free or freed".[39] She was then transferred to Blanco's service, she did not know in what capacity, but she never received a salary or any money for that work. The legal frame of her condition was unclear to the young woman. What she knew for sure was that she was not "*conchabada*," that is, she had never received a salary. Finally, the case also reveals that the suspicion, or the possibility, of being a freedman or freedwoman may have circulated as a rumor. Between the late 1820s and the 1830s, a number of young black men and women began to doubt their slave or free status, and so did sometimes the Defenders of the Poor who intervened when such persons were bought and sold.

Over time, many of these questions came to be settled in the courts. In 1831, a judge pointed out that since these conflicts were recurrent, he would not accept simple testimonies as proof of slave ownership. He was "aware that many [alleged slaves] were in fact free, although their masters had submitted simple testimonies of their enslaved status."[40] Some judges backed enslaved people over their masters in questions of ownership evidence, a decision masters much resented. They expressed their discomfort in the public sphere. For example, *El Clasificador, o Nuevo Tribuno* published a letter in August 1830 in which a slaveholder accused the judges of "deploying too much protection for freedmen as well as eroding masters' authority—even humiliating them." He also complained in general terms about the "licentiousness of that class called *liberta*."[41] Argentine historiography—unlike that of Brazil—had largely ignored the question of slaveholders' authority and its construction or erosion. This kind of testimony reveals how important this issue was for the maintenance of the slave order in Argentina too, and how abolitionist policies affected it.

Finally, if these cases illustrate slaveholders' efforts to resist the enforcement of the Free Womb law, they are also good indicators of the knowledge people had of those gradual abolitionist laws. Enslaved, free, and freed persons knew these norms, and made use of them to resist forced relocations, to promote convenient migrations, to increase their degrees of autonomy, or to achieve full freedom. That was also the case of Petrona from Santa Fe. Unlike Isabel and Petrona Salvatierra, her personal juridical status was uncontested. She was born as a "slave" and her transfer to Buenos Aires would not change that fact. But the possibility of travelling to Montevideo would represent a serious threat, if not for her, certainly for her unborn child. Thus, she would try to use the

39. AGN A, Tribunal Civil, F–11, 4–1834 -1835, fol. 8.

40. AGN A. Tribunal Civil, H-3–19/3/1831, Don Mauricio Herrera reclamando un esclavo que le llevaron al cuartel de defensores, fol. 1v–2.

41. Agustina Barrachina, "Africanos y afrodescendientes en el Buenos Aires posrevolucionario: representaciones en la prensa (1830–1833)," *Revista Binacional Brasil Argentina* 7:1 (2018): 69–70, doi: https://doi.org/10.22481/rbba.v7i1.4063.

courts to protect her and her child's rights.[42] The comprehension of the case and of the gradual abolitionist process in the Río de la Plata would be incomplete without a deeper examination of the interventions of the four main participants in the process, who represented, respectively, enslaved persons who fought in courts for their rights, masters who resisted losing their "properties," defenders of the poor who represented enslaved persons and freedmen's rights, and judges who ruled—unevenly—in such pleas.

JUDICIAL CONFLICT, LEGAL ASYNCHRONY, AND QUESTIONS OF JURISDICTION

Without the backdrop created by the revolution of independence, the reconfiguration of jurisdictions, and the new laws of gradual abolition, doña Ana Monterroso would have had no problem moving to Montevideo, part of the Banda Oriental, with the servant she had just bought. Those macro processes, distant and abstract as they may seem, were crucial for the fate of Petrona. The Banda Oriental became the scene for major trans-imperial disputes. It first remained loyal to the Spanish crown, then (re)joined the Provincias Unidas. The radical leader Gervasio Artigas controlled different parts of the territory between 1811 and 1820. In 1816, Montevideo was occupied by the Portuguese empire, and Luso-Brazilian control lasted until 1828, when Uruguay became an independent republic.[43]

Those political changes affected the regulation of slavery and abolition, but their effects were uneven on the two sides of the river. On the eastern bank, the Free Womb law was sanctioned 12 years later than on the western bank. Nevertheless, as Ana Frega points out, the "Argentine" Free Womb law was valid in some parts of the territory of the Eastern Province before the "Uruguayan" house of representatives passed a similar law on September 5, 1825.[44] Total abolition also followed different paths and rhythms. With clear military purposes, the Oriental Republic of Uruguay (independent since 1828)

42. For a balanced view of the use of courts by slaves, see Alejandro de la Fuente and Ariela Gross, "Comparative Studies of Law, Slavery, and Race in the Americas," *Annual Review of Law and Social Science* 6 (2010): 469–485, doi:10.1146/annurev-lawsocsci-102209-152924.

43. On that long presence, dating from colonial times, see Fabrício Prado, *Edges of Empire: Atlantic Networks and Revolution in Bourbon Río de la Plata* (Oakland: University of California Press, 2015). On the political organization in the Banda Oriental from 1810, see Ribeiro, *De las independencias;* and Inés Cuadro Cawen, "La crisis de los poderes locales. La construcción de una nueva estructura de poder institucional en la Provincia Oriental durante la guerra de independencia contra el Imperio del Brasil (1825–1828)," in *Historia regional e independencia del Uruguay. Proceso histórico y revisión crítica de sus relatos,* Ana Frega, coord. (Montevideo: Ediciones de la Banda Oriental, 2009).

44. Ana Frega, "Caminos de libertad en tiempos de revolución. Los esclavos en la Provincia Oriental Artiguista, 1815–1820," in *Seminario Estudios sobre la Cultura Afro-Rioplatense. Historia y Presente,* Alex Borucki y Ana Frega, comps. (Montevideo: Publicaciones de la Facultad de Humanidades y Ciencias de la Educación, 2004).

in 1842 drafted a law of abolition establishing that "there [were] no more slaves in the entire territory of the Republic."[45] That law enabled the government to allocate "useful men who have been slaves, colonists, or pupils, whatever their denomination, to the service of arms for as long as it [might] think necessary." In turn, it established that those who were not "useful for military service, and women, would be kept in the class of pupils at the service of their masters," and that "the rights considered to be harmed by this resolution would eventually be compensated by laws" In Argentina, the constitution sanctioned in 1853 would finally produce total abolition, with compensation to masters, but without further controls over former slaves.

This legal asynchrony in antislavery measures was at the heart of Petrona's resistance to being relocated again, especially because of the key fact that she had become pregnant (perhaps before being sold in Santa Fe). Petrona had also become aware—probably after her arrival in Buenos Aires—that crossing the estuary meant more than a new move: it meant risking her child's freedom. In Montevideo, by then under Brazilian control, her child would be born a slave. To dispel the fears of her slave, in early March, doña Monterroso gave her a certificate of manumission for the unborn child. The mistress wanted to solve the inconvenience of having bought a pregnant slave, but her action could also have been a consequence of her political ideas. Doña Ana Monterroso was not a typical woman of the Rioplatense elite. Far from limiting herself to taking care of her family and household, or attending mere social *tertulias*, she had strong political ideas and was deeply committed to the construction of political networks. Her brother was the priest José Benito Monterroso, former secretary of José Gervasio Artigas, the leader of the anticolonial movement in the Banda Oriental and of a federalist and democratic project for the whole of Río de la Plata in the first years of revolution.[46] She had been married since 1817 to don Juan Antonio de Lavalleja, a lieutenant of Artigas, who became in the 1820s (after the defeat of the caudillo and his exile to Paraguay) an active militant against the Luso-Brazilian occupation of the Banda Oriental.

In 1823, the year doña Ana bought Petrona, Lavalleja and Monterroso were weaving networks between Buenos Aires, the provinces of the Litoral, and Montevideo to organize the resistance to the Brazilian government based in Montevideo. Two years later, in 1825, Lavalleja would lead an expedition that managed to free most of the province, with the exception of Montevideo.

45. See Borucki, *Abolitionism y tráfico de esclavos.*

46. On Artigas and the Liga de los Pueblos Libres, see Ana Frega, "El artiguismo en la revolución del Río de la Plata. Algunas líneas de trabajo sobre 'El sistema de los pueblos libres,'" in *Nuevas miradas en torno al artiguismo,* Ana Frega and Ariadna Islas, coords. (Montevideo: Facultad de Humanidades y Ciencias de la Educación, 2001). In fact, the Monterroso siblings were cousins of Artigas. I thank one of the reviewers for this piece of information.

Doña Monterroso took an active part in the political organization of the expedition, and she was in charge of the family businesses during Lavalleja's campaigns, imprisonments, and exiles. She distributed letters, organized meetings, and kept her husband informed. It is plausible that her trips back and forth to Montevideo were related to the organization of the aforementioned expedition. It is also possible that Monterroso's links with Santa Fe had their origin in the city's active participation in the movement led by Artigas ten years before. If we consider Artigas's politics on slavery, it is easier to understand why Monterroso delivered the letter of freedom to the unborn child. Artigas and his supporters had declared themselves favorable to "the dogma of freedom" and to the enforcement of the gradual abolition laws issued by United Provinces authorities in the territories of the Banda Oriental under their control.[47]

Petrona, however, was not satisfied by the manumission letter issued for her child, probably because the further away from Santa Fe she went, the more unlikely it would be to return to her family. Perhaps she thought the new uprooting implied more loneliness, fewer networks, fewer possibilities of keeping her child, and, eventually, fewer paths to achieving her freedom. She may also have felt that moving into a territory under Brazilian control was synonymous with traveling to the heart of the slave order. She may have thought that a piece of paper offered many fewer guarantees to her child's freedom than staying in a country where children could not be born slaves.[48] For some of these reasons, or for all of them, Petrona resisted.

Unable to further delay her return to the Banda Oriental, doña Monterroso departed a week later, without Petrona. Two of the mistress's acquaintances, Eugenia Saravia and Francisco Belaustegui, received instructions to take control of Petrona and arrange her sale. After ten days without finding a buyer, the proxies planned the forced transfer of the enslaved woman to Montevideo. Despite their arrangements, the crossing was not carried out. Petrona, resolute and perhaps advised by other slaves of the house, appealed to the justice of the peace of the Cathedral quarter, don Jose Erescano, asking not to be boarded "with violence."

The court became a battlefield for the interpretation of both the Free Womb Law and masters' rights' scopes. The judge prohibited the relocation and deposited

47. Notwithstanding, it is true that Artigas did not promote immediate abolition, used forced recruitment of enslaved males for the war, and maintained the racial division of regiments. On the other hand, he did promote the right of blacks and free *zambos* to receive land. On these policies, see Ana Frega, Alex Borucki, Karla Chagas, and Natalia Stalla, "Esclavitud y abolición"; and Frega, "Caminos de libertad."

48. On the fragile guarantee of freedom offered by documents, see Scott and Hebrard, *Freedom Papers*.

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Petrona in a neighbor's house. After obtaining a power of attorney, doña Eugenia appealed before the first-instance judge. She argued that the unborn child's freedom was ensured by the aforementioned letter of manumission, issued before a notary. After a consultation with the Defender of the Poor, Ramón Díaz, the rejection of the transfer gained strength. First, Díaz argued that the decision of the justice of the peace had been made in accordance with "a decree of August 10, 1821 inserted in the Official Register No. 12."[49] The decree precisely inhibited the departure of pregnant slaves to foreign countries where "there is no news of the freedom that has been given to them [the newborn] here."[50] Díaz knew the law well since he was a member of the representative assembly (Sala de Representantes) of Buenos Aires province when the disposition was issued by governor Martín Rodríguez and his famous secretary, the future Argentine president Bernardino Rivadavia.[51]

It is worth noting that in 1820 the attempt to organize a single national state from the ruins of the viceroyalty of the Río de la Plata had a setback due to the strong differences between Buenos Aires and the provinces of the Litoral. This situation led to interprovincial wars and the failure of attempts to form a national government. Starting with the so-called "anarchy of the year '20," all provinces would begin, or continue, to organize themselves as autonomous and sovereign units.[52] Due to this complex situation, the prohibition to take pregnant slaves out of the province, issued by the junta of Buenos Aires, was effective only in that province. Nevertheless, other bordering provinces, such as Entre Rios, or the interior province of Córdoba, passed similar laws.[53]

Second, the Defender of the Poor challenged the legitimacy of the manumission letter issued for the unborn child, since it was not possible to give freedom "in favor of a fetus that is already free and does not need it [the manumission

49. The law was actually issued in November 1821, and stated that "he government has been very surprised to know that greed still continues in the inhumane endeavor to make slaves those who by the laws of the country should be free." As such, the law declared a prohibition on "the transfer of pregnant slaves to bordering countries and the departure of freedmen before their emancipation." *Registro Oficial de la Provincia de Buenos Aires*, 1821, 131.

50. Ramón Díaz was born in Buenos Aires in 1796. In 1819, he was elected as representative of Luján before the Sala de Representantes and acted as such between 1821 and 1823. He was most likely editor of *La lira Argentina,* the first compilation of Argentine poetry, published in 1824—the same year in which Díaz died prematurely. Pedro Luis Barcia, in his preliminary study for the 1982 edition of *La lira Argentina* (Academia Argentina de Letras, Buenos Aires).

51. *Acuerdos de la Honorable Junta de Representantes de la Provincia de Buenos Aires (1820–21)*, vol. 2 (Buenos Aires, 1933).

52. See Chiaramonte, *Ciudades, provincias, estado*.

53. Entre Ríos, another province bordering the Banda Oriental and the Luso-Brazilian empire, sanctioned a similar law ("Ley confirmando la prohibición del tráfico de esclavos" (Law confirming salve trade ban". It established that "no slave woman can be taken to another [place] where there is no Freedmen's law. Owners who want to leave, must sell their slaves before [that]." The law added: "Masters, patrons of the freedman, cannot take them out as just said; in such case, the patronage will be returned to the government so it can use them and give them new patrons." *Recopilación de Leyes, Decretos y Acuerdos de Entre Ríos de la Provincia de Entre Ríos*, tomo 1 (1821–1824), (Uruguay, Imprenta de la Voz del Pueblo, 1875): 160–162. The province of Córdoba would issue a similar law.

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letter], except for being taken away from the country, in detriment to his freedom."[54] In the lawyer's interpretation, the fetus in the slave's womb was already free, and this question, which may seem minor, was actually crucial. As pointed out previously, the whole foundation of the legal distinction between the free-born ingenuos and the libertos was based on the idea that the latter had been slaves at some point. In the case of those born after 1813, that moment of slavery could have existed only while they were in their mother's womb. But, if they were considered free before their birth, they should, once born, have been considered ingenuos (as the Chilean Free womb law, sanctioned in 1811, called them, or as the 1871 Brazilian Free Womb law would also consider them).[55]

In the case of Brazil, the legal term to be applied to those children was the object of an intense debate. As Sydney Chalhoub has pointed out, there was full awareness in the Brazilian public sphere of the difference between both statuses.[56] To be considered an ingenuo implied no tutelage from the government and none from the masters. It also meant that former slaves and their descendants could have political rights. In Argentina, in contrast, the difference went almost unnoticed, despite the fact that, underlying this nominal distinction, there was a substantial question for the lives of several generations of Afro-Argentines. Being free and being freed were not at all the same.

Since this juridical distinction and debate, key to understanding the radical character of defender Díaz's plea and the condition of freed persons, have not yet been studied in the case of Argentina, their major threads will be reconstructed in the following section. This analysis could also offer some clues to thinking about the abolition process in the other new Latin American republics.

LIBERTOS AND PATRONAGE IN THE RIOPLATENSE JURIDICAL DEBATE

As stated earlier, from the decree of February 1813 to the March 1813 Regulation affecting libertos, enslaved women's children status changed from free to freed. While supporting the thesis that Petrona's unborn child was free, defender Díaz

54. AGN A, Sala X, M-15, 19 1823, fol. 3.

55. See Guillermo Feliú Cruz, *La abolición de la esclavitud en Chile: estudio histórico y social* (Santiago de Chile: Editorial Universitaria Cormorán, 1947); "Regulando el fin de la esclavitud", Candioti, ". On Brazil, *Visões da liberdade,* Chalhoub; *LIBERATA,* Grinberg, *Africanos libres,* Mamigonian; *O jogo da dissimulação*, do Albuquerque,; and Celso Castilho and Camillia Cowling, "Bancando a liberdade, popularizando a política: abolicionismo e fundos locais de emancipação na década de 1880 no Brasil," *Afro-Ásia* 47 (2013): 161–197.

56. Sidney Chalhoub, *Machado de Assis, historiador* (São Paulo: Companhia das Letras, 2003),171–182, 266–269.

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contested the philosophical grounds on which the legal figure of "freedman" was constructed and applied to frame the lives of those children. In the spirit of the decree "prohibiting the departure of pregnant slaves to foreign countries" there was also an implicit objection to the use of that legal construct since it implied that fetuses, not only babies already born, were free. Once the figure of the liberto was at stake, the institution of "patronage" could also be discussed.

That kind of interpretation had other partisans in the Argentine legal field. Pedro Somellera, the first professor of the chair of Civil Law at the University of Buenos Aires, supported this interpretation. Somellera was a sui generis disciple of Jeremy Bentham, and, in his lessons on civil law, published in 1824, intended to promote a rational and scientific foundation for the new republic's jurisprudence.[57] As a good Utilitarian, Somellera criticized the (Roman) civil law tradition. Regarding slavery, he maintained that "the barbarity of the laws that governed us motivated a substantial difference between man and person." All "the Commentators of Justinian" . . . "[have] treated man as a thing by reason of the existence of slavery." However, "our wise laws have taken wise measures to abolish that *disgusting condition*. For us, man and person will be one."[58] With these words, the professor challenged slavery as an institution and the commodification of people in a radical and almost unprecedented way in the Rioplatense legal field.

Despite those concepts, Somellera had a different approach in regard to the legal provisions "Concerning guardianship and curators." He called the masters of enslaved women's ". . . legitimate guardians with respect to the children who have been born there since February 1813 and from then on." For the Utilitarian professor, however, this guardianship was not equal "to the ones presented by Roman laws and the *Partidas* rules regarding the patrons' tutelage in relation to the freedmen." He added, "The law of the Assembly *only by abuse could call the servants' children freedmen*. They, among us, are free, and they *were never in bondage*, according to that same law."[59]

Like defender Díaz, who not in vain had been his student at the university, Somellera argued that enslaved women's children had not been slaves at any

57. On Somellera as a disciple of Bentham, see Vicente Cutolo, "El primer profesor de derecho civil de las universidades de Buenos Aires y Montevideo," preliminary study to Pedro Somellera, Appendix, "De los delitos" (On crimes), (Buenos Aires: Editorial Elche, 1958); Jonathan Harris, "Bernardino Rivadavia and Benthamite 'Discipleship,'" *Latin American Research Review* 33:1 (1998): 129–149; Klaus Gallo, *The Struggle for an Enlightened Republic: Buenos Aires and Rivadavia* (London: ILAS, 2006); and Magdalena Candioti, *Un maldito derecho. Leyes, justicia y revolución en la Buenos Aires republicana (1810–1830)*, (Buenos Aires: Didot, 2018).

58. Pedro Somellera, *Principios de Derecho Civil,* course presented at the Universidad de Buenos Aires in 1824 (Buenos Aires: Facultad de Derecho y Ciencias Sociales, 1939 [1824]), author's emphasis.

59. Somellera, *Principios*, 51, author's emphasis.

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time and called the practice of considering them libertos an "abuse." If they were never slaves, if they had no "debts" to "purge" for having been manumitted, their freedom should not be limited. Therefore, the free service to their mothers' patrons, the separation from their mothers by sales or inheritance, the special calls to military service and the police, and judicial controls over their lives should not have legal sustenance.[60] All this was implied in Somellera and Díaz's words. On the basis of these subtle but crucial legal distinctions, the use of the figure of liberto could itself have been questioned. However, that possible conclusion of those radically critical and potentially disruptive premises was not drawn. The syllogism remained incomplete. Although Somellera noted the legal consequences of this conceptual slide from free to freed, he did not actively contest the patronage of libertos.[61]

In 1830, due to ill health and political problems, Somellera resigned from the chair of Civil Law. His successor, Rafael Casagemas, would choose to replace the book used to teach Civil Law. He would abandon Somellera's Utilitarian interpretations and would incorporate a classic volume for teaching civil law in the Hispanic American world, *Instituciones reales del derecho de Castilla y las Indias,* written by the Guatemalan José María Álvarez.[62] This book was a best seller in Hispanic American universities. In contrast to Somellera, Álvarez was more descriptive and more submissive to the Roman and Castilian tradition. He maintained that "servitude consists in men being under dominion as a thing."[63] The existence of these servants "according to our law" had two origins: "They are either born as such or are brought venal from Africa and other barbarian nations." For Álvarez, the commercialization and possession of people was legitimate by *ius gentium,* so he could affirm that "it is possible to continue in their possession without scruple."[64] Even if slavery was contrary to the natural freedom with which men were created, it did not contradict the natural law, argued the jurist, "because no precept commands that all men *remain* free." [65]

60. The kinds of controls black people suffered under led Sidney Chalhoub to emphasize the idea of an "structural precariousness of freedom" to describe what African and Afro- descendants suffered in Brazil. Chalhoub, "The Precariousness of Freedom in a Slave Society (Brazil in the Nineteenth Century)," *Internationaal Instituut voor Sociale Geschiedenis*, IRSH 56 (2011), 405–439, doi:10.1017/S002085901100040X.

61. Somellera did not imagine himself as an abolitionist or a person especially concerned with slavery. In his autobiography, he made no reference to such questions.

62. On the relevance of Álvarez's thought as a source used to legitimize Río de la Plata's independence, see José Carlos Chiaramonte, *Nación y estado en Iberoamérica. El lenguaje político en tiempos de las independencias* (Buenos Aires: Sudamericana, 2004).

63. José M. Álvarez, *Instituciones del derecho real de Castilla y de Indias* (Buenos Aires: Imprenta del Estado, 1834 [1818–1820]), 34.

64. Álvarez, *Instituciones*, 28.

65. Álvarez, *Instituciones*, 34.

Álvarez reproduced the classic distinction between ingenuo and freedman, and later the rights of patronage. Of these rights, he specified those that bound the "freedman and his patron." Their foundation, he explained, resides "in a certain kind of paternity and filiation that the law imitates between the patron and his freedman. The reason is clear: just as the son owes his natural life to his father, *the freedman owes his civil life to his patron*."[66] The Guatemalan jurist asserted that slavery was a kind of civil death, manumission was a form of (re)birth, and the patron was a life-giver to a freedman. Emulating the patronage between parents and children, that of patrons to freedmen was based on the idea of a debt.

Álvarez, however, added that the types of rights that patrons had over freedman were "for the most part desacostumbrados."[67] That is, in the Hispanic-American world, the exercise of such power over manumitted persons was not frequent.[68] In the republican Río de la Plata, however, the 1813 Regulation would precisely update and upgrade those rights, reactivating and re-legitimizing the idea of a moral debt that freedmen had, in this case to their mothers' masters. This is a key point. Argentinean legislators were pioneers in applying the legal figure of 'liberto' (freedman) and the institution of patronage to enslaved women's children born after a Free Womb law. Rooted in Roman and Castilian law, and defined long before the Cuban patronato was established, the legal figure and status of liberto proved to be functional for reinforcing the idea of debt to the mother's slaveholders and for allowing the regulation of those children's (later adults) lives.[69]

After 1830, with the change of textbook for teaching civil law at the University of Buenos Aires, future lawyers and judges were taught, again, that slavery was just and freedom should be paid for. In 1834, a re-edition of Álvarez's *Instituciones reales* was issued in Buenos Aires. It was accompanied by an appendix titled "Sobre el estado actual de la esclavitud en esta República y principalmente en

66. Álvarez, *Instituciones*, 37, emphasis by author.

67. Álvarez, *Instituciones*, 37.

68. Conditional manumissions with forced mandates were widely used, but no patronage was explicitly established. On the Buenos Aires case, see Lyman Johnson, "La manumisión de esclavos en Buenos Aires durante el virreinato," *Desarrollo Económico* 16:63 (1976); "La manumisión de esclavos en el Buenos Aires colonial: Un análisis ampliado," *Desarrollo Económico* 17:68 (January-March 1978): 637–646; Johnson, *Los talleres*; Lyman Johnson and Alejandro Titiunik, "La manumisión de esclavos en Buenos Aires durante el Virreinato," *Desarrollo Económico* 16:63 (1976): 333–348; Miguel Ángel Rosal, "Manumisiones de esclavos en el Buenos Aires del temprano siglo XVII," *Anuario de la Escuela de Historia Virtual* 2:2 (2011); Miguel Ángel Rosal, *Africanos y afrodescendientes en el Río de la Plata. Siglos XVIII–XIX* (Buenos Aires: Dunken, 2009); and María Isabel Seoane, "La manumisión voluntaria expresa en la praxis notarial bonaerense durante el Período Federal (1829–1852)," *Revista de Historia del Derecho* 33 (2005): 327–390.

69. This Free Womb law was the second to be sanctioned in Spanish America, the first being the Chilean law of 1811. That law called "free" the children of enslaved women, and did not foresee any regulation of their free status. Later, in 1823, at the time of the total Chilean abolition, legislators would discuss the need to impose some controls on freedmen, as Argentineans had done. On the Chilean case and dialogues with Argentina and Colombia, see Candioti, "Regulando el fin de la esclavitud."

Buenos Aires" ("On the Present State of Slavery in this Republic and Mainly in Buenos Aires,)" written by a young lawyer, Dalmacio Vélez Sarsfield.[70] The text was a mere description of local legal innovations, such as the slave trade ban and the regulation of patronage. No criticism of the continuity of the slave institution was pronounced, and no reference was made to the use of the legal figure of liberto to regulate the lives of enslaved woman's children. The text reflected the predominant trend in Argentine republican law.

There were practically no defenders, lawyers, or local jurists who advocated in the courts for the freedom of slaves based on the injustice of slavery as an institution. Nor were there seekers of legal loopholes that would allow discussion of the fact that freedmen were considered as minors in the courts and suffered from other subjugations. The Defenders of the Poor, whose legal function was to protect the interests of enslaved and freedmen, did so on the basis of a traditional legitimization of accessing freedom. Their personal opinions—as Lucas Rebagliati has shown, and defender Díaz's interventions demonstrate—were key to determining their strategies to either support or ignore the slaves' demands.[71]

The scarcity of debate on slavery in the Rioplatense legal doctrine was consistent with the little public and political discussion of the illegitimacy of the institution as such. The tacit (and sometimes explicit) acceptance of such illegitimacy—fueled by the use and abuse of this concept to criticize the colonial order and ignite the flame of revolution and independence—did not lead to definite actions to end it immediately. The abstract idea that slavery deserved to die did not find firm or constant promoters. Improvements in enslaved people's lives and the possibilities for their achieving freedom depended on their individual initiative, as well as on the Defenders of the Poor and judges' beliefs.

In the case of Petrona, after the singular intervention of the Defender of the Poor, the judge of first instance, Roque Sáenz Peña, prohibited the shipment of the pregnant woman to Montevideo. Doña Monterroso's proxy, Eugenia Saravia, and her lawyer, Marcos Vidal, therefore adopted a three-part strategy. First, they argued that the mistress was "more philanthropic and liberal than the defenders think." According to them, the written guarantee offered to the slave's child fulfilled the "spirit of the decree of 1821" and ratified "in a public and solemn manner her support, without difficulty, for the dogma of

70. Dalmacio Vélez Sarsfield would later be the author of the first Argentinean civil law code (1869).

71. Vélez Sarsfield clarified that the philanthropic treasury foreseen in the freedmen's Regulation, had not been organized, and that the conflicts around the patronato were being processed not before the police, but before the judiciary. Thanks to this judicialization, it is possible today to reconstruct the life of freedmen and the centrality of courts as a space of struggle over the scope of the freedom granted to freedmen.

freedom."[72] Monterroso's representatives tried to detach her from the stigma of being pro-slavery, an accusation that was in the air. They also claimed that although the decree prohibited the transport of a pregnant slave, it said nothing about traveling after the child's birth. Vidal argued that the freed baby would be safer with the copy of the manumission than without it, but he was wrong. The decree did forbid freedmen to travel until the age of their full emancipation.

The second move was to delegitimize the defender's proceedings. Monterroso's representatives denounced Díaz's efforts, stating his "business is to uphold servants'pretentions at all costs," and that it was customary for the defender to extend "a protection without limits, to the slaves whom he shelters, even against the masters' respectable and sacred property rights."[73] Third, Monterroso's proxies warned that the mistress had been deprived of her property for three months, and that it was thus "necessary for the court to take into account that if freedom is venerable, no less is the right to property, [for] both are sacred dogmas in political and legal terms."[74] This document was presented to the court on June 10, 1823. With it, the case ended, truncated, without allowing us to know which party managed to affirm "her right." In the short term, Petrona got a victory. Her son was born and registered in Buenos Aires as a "freedman." The parish register states that on June 19, 1823, the priest Francisco Baez baptized a baby born the previous day with the name Gervasio Cirilo, "son of Petrona, parda slave of don Juan Antonio de Lavalleja: his godmother was Catalina Ceballos, free parda."[75] Gervasio Cirilo was born eight days after his mistress's last appeal and christened on the day of San Gervasio, a very plausible reason for his receiving that name, although it is not unreasonable to imagine that the masters' political affinities influenced this choice.[76]

This outcome was a battle that had been won, in a war that in many ways was already lost. Petrona had been sold, moved, and disconnected from her family and social networks in Santa Fe. She would continue subject to a master against whom she had litigated, and her son would be considered not free, but freed. This would leave him at the mercy of his patron, judges, and also the government's dispositions, like the rest of those freed under the Free Womb law.

72. AGN A, Tribunal Civil, 23, M-15, 1823.

73. AGN A, Tribunal Civil, 23, M-15, 1823, fol. 6; Mallo, "Los discursos."

74. AGN A, Tribunal Civil, 23, M-15, 1823, fol. 6

75. *Libro de Bautismos (mestizos, mulatos y negros)*, 1817–1853, Parroquia de Nuestra Señora de la Merced, Ciudad de Buenos Aires, fol. 12v, https://familysearch.org/ark:/61903/3:1:9396-XT93-Y?cc=1974184&wc=MDBK-D6D%3A311514201%2C316597501%2C316802401

76. I owe to Alex Borucki the information that Gervasio Cirilo was born on Artigas's birthday. Nevertheless, Borucki pointed out Gervasio was not a very popular way to refer to Artigas at the time. Personal communication.

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RETHINKING THE PROCESS OF ABOLITION IN THE LIGHT OF PETRONA'S JOURNEYS

The revolution of independence initiated in 1810 opened a process of political and legal experimentation in the Río de la Plata, in which slavery and abolition played a key role. On one hand, slavery became the quintessential metaphor of Spanish rule. On the other hand, important measures for gradual emancipation were taken. Like the revolution itself, they were founded on the ideas of the natural equality and freedom of human beings. While this first formulation and justification of gradual abolitionist laws was truly radical, later regulations, judicial practices, and public discourses were far more moderate.

A general belief that slavery as an institution was destined to die was widespread in Argentina. Official discourses and newspapers, politicians, and *letrados* underlined the "odious," "barbaric," and inhuman character of slavery. But they also helped to build the idea that slavery was mainly a foreign reality and Brazilian "problem". This "exteriorization" of slavery, could help to explain the unusual and even exceptional protection deployed by different judicial actors such as the justice of the peace, the defender, and the judge of first instance toward Petrona's unborn child. On one hand, such protection may be explained politically or ideologically by the liberal commitment of Rivadavia's government (1821–24) in Buenos Aires, with the enforcement of free soil and Free Womb laws. The decree of 1821, prohibiting the transfer of pregnant slaves, can be read as a proof of such commitment.

However, a more general question was also at stake. In the middle of the conflict over the Banda Oriental's occupation, the emphasis on the conflict between the philanthropic and antislavery commitment of Buenos Aires (Argentina) and the Cisplatine (Luso-Brazilian) despotic and pro-slavery order also proved to be important.[77] As Martha Jones stated in her study of a slaveholding household in the state of New York, "Slavery helped give meaning to territorial jurisdictions."[78] Thus, by making these kinds of rhetorical contrasts, judges and defenders were (as were politicians and publicists in their time) creating and reinforcing both the country´s identity and its sovereignty. Buenos Aires presented itself as a beacon of revolution in Spanish America, one that would ensure the gradual emancipation of slaves. Brazil, on the contrary, was portrayed as a symbol of old-fashioned institutions: monarchy and slavery. The Banda Oriental had been a territory under permanent dispute since colonial times, and since 1817 it had been under Luso-Brazilian control. Republican

77. Cisplatine was the name for this territory under Brazilian rule.
78. Martha Jones, "Time, Space, and Jurisdiction," 1037.

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judges may have seen Petronas's case as an example of this contrast and may have tried to prove Buenos Aires was a land committed to the end of slavery.

The rhetoric of the official newspaper, *El Argos de Buenos Aires*, in those years stressed this contrast. On March 19, 1823 (the same year and month that Monterroso was trying to move her pregnant slave), this official paper published an article posing the following question: "We men of reason and humanity dare to ask the Brazilian nation: What use has it made of its revolution [if it] stubbornly maintains the slavery of blacks, those impure remains of the fiercest times of its history? Disgraceful doom that of this nation, since it is forced to walk in the direction opposite to the light at the same time [that] it opens the path to freedom!"[79]

Buenos Aires was presented here as the home of rational and humanitarian citizens, while Brazilians, by then also governing Montevideo, were portrayed as supporters of archaic institutions, even after declaring their independence from Portugal in 1822. This kind of speech, which was critical of the Brazilian commitment to the slave trade and plantation slavery, would become stronger and more pervasive in the Argentinean press when, three years later, in 1825, the war with the Brazilian empire for the "Cisplatine Province" erupted. It would continue for years, until 1828. his exaltation of the Argentinean antislavery commitment, and the contrast of that commitment with that of foreign powers, was contrary to the moderation that observers, politicians, and jurists deployed in the local public sphere. Rioplatense law experts—those in charge of attending to judicial demands for freedom, sponsoring masters or slaves, determining "personhood," and what kinds of relationships were legal—maintained an almost systematic indifference toward the challenge of slavery. At the same time, almost any law, book, manual, conference, or discourse produced in the Río de la Plata reflected in depth the radical illegitimacy of slavery as an institution.[80] They mentioned its "disgusting" and illiberal character, but they did not argue that slavery contradicted the dogma of natural freedom and equality that had been proclaimed by the local revolution. One of the few reflections that could have accelerated emancipation, a claim that it was abusive to call the children of enslaved women born after the Free Womb law 'libertos,' could have changed the legal status and life of thousands of Afro-Argentines, but it had neither judicial nor public impact.

79. *El Argos de Buenos Aires* 23, March 19, 1823. See also Mariana Lescano, "La representación del proceso de independencia de Brasil en la prensa porteña (1821–1825)," (Licenciatura thesis: Facultad de Filosofía y Letras, Universidad de Buenos Aires, 2013).

80. The exception to that silence are a group of XIXth century theses to obtain the degree in Jurisprudence. This unpublished dissertations, I am working on, did problematize slavery and produced radical critics to it.

Courts, in fact, were not the places where explicit abolitionist rhetoric emerged. There, the *letrados* (lawyers) pointed out the injustice of specific situations of slavery, but they made no attacks on the legitimacy of the institution itself.[81] The master's rights were not questioned in general, even though they were occasionally contradicted. Judges did not deploy a systematic protection of slaveholders' rights, but neither did they defend slaves steadily in the name of the illegitimacy of the institution that regulated their lives. At the origin of this silence and moderation was another deeply rooted belief, one completely unrelated to the public idea of natural rights: that slaves should pay for their freedom. The profound logic of the politics of abolition in the Río de la Plata entailed that Africans and Afro-descendants deserved freedom only if they could pay for it. That payment could be with money (in the case of manumissions), with military service (through governmental *rescates* or "rescues"), or through unpaid work in the case of those born libertos, or declared so after privateering captures.[82]

A second feature of the process was its obvious gender bias. After the revolution, very unequal opportunities for freedom were created for women and men. Through risky participation in the army, adult men could be, and in fact were, massively emancipated. Women had to deal with their survival, their family, and their work in greater solitude, given the strong military recruiting pressure. As a consequence of the extended militarization, elite families' households were affected as well as those of enslaved families. As these two women, Petrona—enslaved, parda, with no surname—and doña Ana Monterroso de Lavalleja—a member of the elite, white, married, lettered—litigated over the transfer and the child, they expressed unexpected roles women could have in the context of revolution and abolition. Located on opposite sides of the social structure, with very different resources and possibilities of controlling their lives, they were both strong women, trying, almost in solitude, to protect their interests and families.[83] Whereas men had the army as gateway to emancipation, African and Afro-descendant adult women had only the traditional and difficult way that Spanish law offered them: manumission. Enslaved women would be able to give birth to freed sons and daughters, but could not enjoy that freedom

81. On ideas on slavery circulating in the courts, see Mallo, "La libertad."

82. In the context of the wars between the Argentine Confederation and the Brazilian empire, the capture of enemy ships by private corsairs was not only allowed but encouraged by the Argentine government. As a result, a series of slave ships were captured and conducted to Patagones. On libertos in this situation, see Andrews, *Los afroargentinos*; and Liliana Crespi, "Negros apresados en operaciones de corso durante la guerra con el Brasil (1825–1828)," *Temas de África y Asia* 2 (1993): 109–124.

83. On the kinds of contrasts presented by these two women as they tried to take control of their lives in a slave society (in this case, Brazil), see Laura Graham Lauderdale, *Caetana diz nao. Histórias de mulheres da sociedade escravista brasileira* (São Paulo: Companhia das Letras, 2005).

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themselves. Freedom would pass through their wombs, as slavery had before, yet this would not free their bodies.

The weakness of legal, political, and public debate about the end of slavery and its illegitimacy was a prelude that explains the subsequent total absence of debates regarding the complete abolition of slavery. The national deputies, finally gathered in Santa Fe in 1853, swore to a constitutional article: "In the Argentine Confederation there are no slaves: the few that exist today are free after this constitution is signed."[84] Consistent with the tradition of not discussing slavery, or its end, the article was accepted without any congressional representative taking the floor, either to object to it or to praise it. Also in line with the idea that enslaved people's freedom had to be paid for, the deputies considered a future retribution to masters. The limits of the declared national refusal to the institution of slavery could not be more evident.

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84. Archivo General de la Provincia de Santa Fe, *Actas de la Asamblea Nacional Constituyente*, art. 15, 1853, 324.

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