

COMMERCE IN CHILDREN: *Slavery, Gradual Emancipation, and the Free Womb Trade in Colombia*

ABSTRACT: In 1821, as the Wars of Independence drew to a close, officials of the newly created republic of Gran Colombia passed a national gradual emancipation law. At the center of it was a Free Womb law that declared legally free the children of enslaved women born after the law's promulgation, while bonding these children to their mothers' masters until the age of 18. Yet, in addition to establishing a term limit on their legalized captivity, the law stipulated conditions for the commerce in Free Womb children, laying the groundwork for what I refer to as the Free Womb trade. This article presents the first detailed exploration of the origins, operations, and limitations of the Free Womb trade in Colombia, particularly at the level of one province: the northwestern Pacific coastal province of Chocó. I argue that the trade created distinctly bounded market geographies of Free Womb children, who were actively, if at times ambiguously, incorporated into Colombia's slave economy. As a general rule, the Free Womb trade placed captive families at the mercy of their masters; yet, as one extraordinary case reveals, the full extent of the local trade's legal power was not entirely secure.

KEYWORDS: slavery, gradual emancipation, Free Womb law, children, Colombia

As insurgent forces battled Spanish royalists in what would become the last throes of the Wars of Independence in the northern Andes, representatives of the newly constituted republic of Gran Colombia (composed of present-day Colombia, Venezuela, Ecuador, and Panama) convened in 1821 in the Colombian town of Villa del Rosario de Cúcuta to design the future of the young nation. Mostly below the age of 40 (given the death of many insurgent leaders in the 1810s), the revolutionary delegates to what became known as the Congress of Cúcuta were part of a younger generation of lettered, commercial, and ecclesiastical creole elite. Over the course of a year, these men of means defined the future of Gran Colombia.

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Delegates debated the republic's political structure, whether it would adopt a federalist or centralist system, and management of war debt, among other issues, as they responded to an influx of private petitions from soldiers, widows, war orphans, clergy, and public administrators.¹ This historic Congress passed many of Colombia's most sweeping liberal reforms, including the most iconic liquidation of Indian *resguardos*, the communal lands dating from the colonial period. Several measures dealt similar blows to hundreds of years of Spanish legislation, while others only slightly amended Colombia's inherited colonial structure.² Slavery, deemed one of Spanish colonial rule's most contentious legacies, was also on the negotiating table.

Inspired by the example of gradual abolition legislation across the revolutionary Atlantic World, from Pennsylvania in 1780 to Buenos Aires in 1813, and especially the adoption of a gradual abolition law in the western Colombian province of Antioquia in 1814, Colombian and Venezuelan delegates at the Congress of Cúcuta passed a national gradual emancipation law known as the ley de 21 de julio sobre la libertad de partos, manumisión y abolición del tráfico de esclavos (the law of July 21 on Free Womb, manumission, and abolition of the slave trade). This law would alter the destinies of the more than 100,000 enslaved people (half of whom were living in the present-day nation of Colombia), their progeny, and those who sought to govern them.³

The 1821 law banned the importation of enslaved people into the territory of Gran Colombia and established *juntas de manumisión*, or local councils that

1. Carlos Restrepo Piedrahita, *El Congreso Constituyente de la Villa del Rosario de Cúcuta, 1821* (Bogotá: Universidad Externado de Colombia, 1996); Juan Camilo Restrepo Salazar, *La hacienda pública en la Constitución de Cúcuta de 1821* (Bogotá: Pontificia Universidad Javeriana, Grupo Editorial Ibáñez, 2010), 37, 40, 53. For an overview of the delegates at the Congress of Cúcuta, see Leopoldo Uprimny, *El pensamiento filosófico y político en el Congreso de Cúcuta* (Bogotá: Ed. Academia Colombiana de Jurisprudencia, 2010).

2. For more on legislation and measures adopted at the Congress, see José Manuel Restrepo, *Historia de la revolución de la república de Colombia en la América Meridional*, Vol. 3 (Besançon, France: J. Jacquin, 1858), 227–248; David Bushnell, *The Making of Modern Colombia: A Nation In Spite of Itself* (Berkeley: University of California Press, 1993), 51–55; John Lynch, *Simon Bolívar: A Life* (New Haven: Yale University Press, 2006), 152–164; Marixa Lasso, *Myths of Harmony: Race and Republicanism During the Age of Revolution, Colombia, 1795–1831* (Pittsburgh: University of Pittsburgh Press, 2007), 58–60; Aline Helg, *Liberty and Equality in Caribbean Colombia, 1770–1835* (Chapel Hill: University of North Carolina Press, 2004), 163–164, 171; and Jorge Castellanos, *La abolición de la esclavitud en Popayán: 1832–1852* (Cali, Colombia: Universidad del Valle, 1980), 24–36.

3. José Félix de Restrepo, “Discurso sobre la manumisión de esclavos pronunciado en el soberano Congreso de Colombia reunido en la Villa del Rosario de Cúcuta en el año de 1821,” 1822, Biblioteca Nacional de Colombia [hereafter BNC], Biblioteca Digital, 25, 28, https://catalogoonline.bibliotecanacional.gov.co/client/cs_ES/search/asset/107382, accessed February 7, 2019; Jorge Andrés Tovar Mora and Hermes Tovar Pinzón, *El oscuro camino de la libertad: los esclavos en Colombia, 1821–1851* (Bogotá: Universidad de los Andes, Facultad de Economía, 2009), 53. For the entire Antioquia law of 1814, titled “Proyecto de ley sobre la manumisión de la posteridad de los esclavos Africanos y sobre los medios de redimir sucesivamente a sus padres,” see Guillermo Hernández de Alba, *Vida y escritos del doctor José Félix de Restrepo* (Bogotá: Imprenta Nacional, 1935), 69–73. The 1814 law included other provisions, such as the forced re-enslavement of any former slaves who “abused” their freedom, and the refusal to grant full emancipation to Free Womb children who were deemed “immoral and full of vices” despite having reached the age of emancipation.

were responsible for manumitting “the most honest and industrious” slaves on behalf of the republic via public manumission ceremonies. Further, it established a Free Womb law that declared legally free the children of enslaved women born after the law’s promulgation, while bonding these children to their mothers’ masters until the age of 18.⁴ Of these three provisions, the Free Womb law most significantly transformed the institution of chattel slavery by terminating its legal foundation: *partus sequitur ventrem*, the status of the child derives from the mother.⁵ After 1821, the children of slaves born in Gran Colombia would no longer inherit their mother’s legal condition of enslavement.

Yet, beyond establishing a term limit on the legalized captivity and future emancipation of the children of enslaved women born after 1821, the Free Womb law stipulated specific conditions for the commerce in Free Womb children within Colombia’s economy of slavery, laying the legal groundwork for what I refer to as the Free Womb trade. Articles 3 and 5 of the 1821 law formulated and established the exact parameters of this trade. Article 3 created the Free Womb trade by legalizing the “withdrawal” (in practice, selling) of Free Womb children to “persons not of kin” (that is, other masters) in exchange for compensation of “*alimentos*” (support, or more specifically food, education, and rearing by their former master). Article 5 instituted specific guidelines for the Free Womb trade by stipulating that slaves (in practice, enslaved mothers) could not be sold without their children “outside the province in which they reside,” but that this prohibition would “only be in force until the children have attained the age of puberty.”⁶ Although Article 5 did not explicitly refer to the sale of Free Womb children, in practice it legalized the *intraprovincial* trade of prepubescent and postpubescent Free Womb children with or without their mothers, but sanctioned the *interprovincial* trade of postpubescent Free Womb children.⁷ Together, Articles 3 and 5 of the 1821

4. For the entire 1821 law, see Congreso de Cúcuta, 1821, Session of July 19, *Libro de Actas*, Act 84. The Free Womb provision of the gradual emancipation law was also referred to as the *ley de libertad de los vientres* (“law of the freedom of the wombs”). See, for example, *Gaceta de Colombia*, no. 291, May 13, 1827, 211.

5. For more on “*partus sequitur ventrum*” in the history of Atlantic World slavery, see Camillia Cowling, *Conceiving Freedom: Women of Color, Gender, and the Abolition of Slavery in Havana and Rio de Janeiro* (Chapel Hill: University of North Carolina Press, 2013), 53–59; Jennifer L. Morgan, “*Partus sequitur ventrum*: Law, Race, and Reproduction in Colonial Slavery,” *Small Axe* 22:1(55) (March 2018): 1–17; Martha S. Santos, “‘Slave Mothers,’ *Partus Sequitur Ventrem*, and the Naturalization of Slave Reproduction in Nineteenth-Century Brazil,” *Tempo* 22:41 (September–December 2016): 467–487; and Jerome S. Handler, “Custom and Law: The Status of Enslaved Africans in Seventeenth-Century Barbados,” *Slavery and Abolition* 37:1 (2016): 1–23.

6. Article 3 in the original reads: “Si antes de cumplir la edad señalada quisieren los padres, los parientes u otros extraños, sacar al niño o joven hijo de esclava, del poder del amo de su madre, pagarán a éste lo que se regule justo por los alimentos que le ha suministrado, lo que se verificará por un avenimiento particular, o por el prudente arbitrio del juez.” Article 5 in the original reads: “Ningunos esclavos podrán venderse para fuera de la provincia en que se hallen, separándose los hijos de los padres; esta prohibición sólo subsistirá hasta que los hijos lleguen a los años de la pubertad.” See Congreso de Cúcuta, 1821, Session of July 19, *Libro de Actas*, Act 84.

7. The 1821 gradual emancipation law did not place restrictions on the operation of the slave trade (as opposed to the Free Womb trade) between the provinces.

law legalized the commerce in Free Womb children throughout Colombia. Their effects would be felt most acutely in provinces with significant enslaved populations, notably the southwest and the western Pacific lowlands.⁸

This article explores the origins, operations, and limitations of the Free Womb trade in Colombia, particularly at the level of a single province: the northwestern Pacific coastal province of Chocó, one of the gold-mining centers of colonial and republican Colombia. Through an analysis of the 1821 congressional debates and commerce in Free Womb children, I argue that the Free Womb trade created distinctly bounded market geographies of fungible Free Womb children that were actively, if at times ambiguously, incorporated into Colombia's slave economy.⁹ As a general rule, the Free Womb trade in Chocó placed captive families at the mercy of their masters. However, as the final section shows, the legal terms of the local Free Womb trade could be successfully contested by enslaved mothers aided by sympathetic judges. This article thus underscores the legal entrapment of Free Womb children trafficked in the Free Womb trade and the politically fraught and contingent nature of the 1821 law.

The process of the protracted and gradual abolition of slavery has been the focus of a distinguished corpus of foundational studies in the historiography of slavery and emancipation in the Americas, especially in Cuba, Brazil, and the northern United States. Within such studies, and within similar scholarship focusing on Colombia and Argentina, scholars have scrutinized the Free Womb or Free Birth laws (as they were called in the United States) largely from the perspective of their legal, political, and social consequences, ranging from gendered analyses of the rhetorical use of the Free Womb law in enslaved mothers' lawsuits to shifts in Free Womb policy according to political conflicts and changes.¹⁰ While the economic impact of such laws has always been

8. On slavery in southwestern and Pacific coastal Colombia, see Germán Colmenares, *Historia económica y social de Colombia, Tomo II: Popayán, una sociedad esclavista, 1680–1800* (Medellín: La Carreta, 1979); Fernando Jurado Noboa, *Esclavitud en la Costa Pacífica: Icuandé, Timaco, Barbaecos y Esmeraldas, siglos XVI al XIX* (Quito: Ediciones Abya-Yala, 1990); Sherwin Bryant, *Rivers of Gold, Lives of Bondage: Governing through Slavery in Colonial Quito* (Chapel Hill: University of North Carolina Press, 2014); Sergio Antonio Mosquera Mosquera, *Don Melchor de Barona y Betancourt y la esclavización en el Chocó* (Quibdó, Colombia: Universidad Tecnológica del Chocó "Diego Luis Córdoba," 2004); Orián Jiménez Meneses, *El Chocó, un paraíso del demonio: Névita, Citará, y el Baudó, siglo VIII* (Medellín: Universidad de Antioquia, 2004); William Sharp, *Slavery on the Spanish Frontier: The Colombian Chocó, 1680–1810* (Norman: University of Oklahoma Press, 1976); Marcela Echeverri, *Indian and Slave Royalists in the Age of Revolution* (Cambridge: Cambridge University Press, 2016); and Kris Lane, "The Transition from *Encomienda* to Slavery in Seventeenth-Century Barbaecos (Colombia)," *Slavery and Abolition* 21:1 (2000): 73–95.

9. By "market geography," I am referring to the spatial and particularly geographic dynamics of market formations and movements. For a classic geographical study of slavery, see Stephanie Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: University of North Carolina Press, 2006).

10. For example, see Cowling, *Conceiving Freedom*, and Castellanos, *La abolición de la esclavitud en Popayán*, 72–84. On Colombia (and Ecuador), see Castellanos, *La abolición de la esclavitud en Popayán*; Tovar Mora and Tovar Pinzón, *El oscuro camino de la libertad*; Eduardo Posada and Carlos Restrepo Canal, *La esclavitud en Colombia, y leyes de manumisión*

acknowledged and often discussed, the specific dynamics of the buying and selling, that is, the commerce in Free Womb children has been barely or little examined.¹¹

Interestingly, with the exception of the 1821 law in Colombia and the 1871 Rio Branco Law in Brazil, most gradual emancipation laws in the Atlantic World did not legally stipulate Free Womb trades, even though the trade existed.¹² For example, as Carlos Aguirre notes on the Peruvian project of gradual emancipation, Free Womb children “continued to be bought, sold, and exploited, exactly as if they were slaves,” despite the fact that the 1821 gradual emancipation law and related laws in Peru did not explicitly decree the Free Womb trade.¹³ In turn, this article seeks to provide one of the first detailed examinations of the construction and implementation of the under-studied Free

(Bogotá: Imprenta Nacional, 1935); Dolcey Romero Jaramillo, *Esclavitud en la Provincia de Santa Marta, 1791–1851* (Santa Marta: ICTM, 1997); Julio Tobar Donoso, “La abolición de la esclavitud en el Ecuador,” *Boletín de la Academia Nacional de Historia* 39:93 (January–June 1959): 5–30; Camilla Townsend, “In Search of Liberty: The Efforts of the Enslaved to Attain Abolition in Ecuador, 1822–1852,” in *Beyond Slavery: The Multilayered Legacy of Africans in Latin America and the Caribbean*, Darién J. Davis, ed. (Lanham: Rowman & Littlefield Publishers, Inc., 2007). On Cuban studies, see Cowling, *Conceiving Freedom*; Rebecca Scott et al., *The Abolition of Slavery and the Aftermath of Emancipation in Brazil* (Durham: Duke University Press, 1995); and Christopher Schmidt-Nowara, *Empire and Antislavery: Spain, Cuba, and Puerto Rico, 1833–1874* (Pittsburgh: University of Pittsburgh Press, 1999). On Brazil, see Celso Thomas Castilho, *Slave Emancipation and Transformations in Brazilian Political Citizenship* (Pittsburgh: University of Pittsburgh Press, 2016); Dale Graden, *From Slavery to Freedom in Brazil: Bahia, 1835–1900* (Albuquerque: University of New Mexico Press, 2006); and Robert Conrad, *The Destruction of Brazilian Slavery, 1850–1888* (Berkeley: University of California Press, 1972); Robert Toplin, *The Abolition of Slavery in Brazil* (New York: Atheneum, 1972). On the northern United States, see Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago: University of Chicago Press, 1967); Gary B. Nash and Jean R. Soderlund, *Freedom by Degrees: Emancipation in Pennsylvania and Its Aftermath* (New York: Oxford University Press, 1991); Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and “Race” in New England, 1780–1860* (Ithaca: Cornell University Press, 1998); Christy Clark-Pujara, *Dark Work: The Business of Slavery in Rhode Island* (New York: New York University Press, 2016); David Nathaniel Gellman, *Emancipating New York: The Politics of Slavery and Freedom, 1777–1827* (Baton Rouge: Louisiana State University Press, 2006); James Gigantino II, *The Ragged Road to Abolition: Slavery and Freedom in New Jersey, 1775–1865* (Philadelphia: University of Pennsylvania Press, 2015); Paul J. Polgar, *Standard-Bearers of Equality: America’s First Abolition Movement* (Chapel Hill: University of North Carolina Press, 2019); and Sarah L. H. Gronningsater, *The Arc of Abolition: The Children of Gradual Emancipation and the Origins of National Freedom* (forthcoming, University of Pennsylvania Press). On Argentina, see George Reid Andrews, *The Afro-Argentines of Buenos Aires, 1800–1900* (Madison: University of Wisconsin Press, 1980); Magdalena Candiotti, “Abolición gradual y libertades vigiladas en el Río de la Plata. La política de control de libertos de 1813,” *Corpus* 6:1 (January–June 2016): 9–11; Diego Gonzalo Murcia, “La Asamblea del Año XIII y el problema de la esclavitud,” *Aequitas* 7:20 (2013): 23–26; and Paulina L. Alberto, “Liberty 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.

11. On the political economy of Free Birth laws in the northern United States, see for example Robert William Fogel and Stanley J. Engerman, “Philanthropy at Bargain Prices: Notes on the Economics of Gradual Emancipation,” *Journal of Legal Studies* 3:2 (June 1974): 377–401.

12. See Article 5, section 2 of the 1871 Rio Branco Law, which in the original states: “Qualquer desses menores poderá remir-se do ônus de servir, mediante prévia indenização pecuniária, que por si ou por outrem ofereça ao senhor de sua mãe, procedendo-se à avaliação dos serviços pelo tempo que lhe restar a preencher, se não houver acordo sobre o quantum da mesma indenização.” For a digital collection of gradual emancipation laws in the late eighteenth and early nineteenth-century Atlantic World, see www.thefree wombproject.com.

13. Carlos Aguirre, *Agentes de su propia libertad: los esclavos de Lima y la desintegración de la esclavitud, 1821–1854* (Lima: Pontificia Universidad Católica del Perú - PUCP, Fondo Editorial, 1993). On the gradual emancipation law and related laws in Peru, see <https://thefree wombproject.com/peru/>.

Womb trade in the Americas. Focusing on Colombia and the province of Chocó, a province located in the northwestern corner of the Colombian Pacific lowlands, this article reveals the complex market geographies that the Free Womb trade produced at the provincial level.

Some 1.31 million people, 90 percent of whom are Afro-Colombian, currently populate the northwestern Pacific coastal province of Chocó, described by its Afro-Colombian former governor as “the African heart of Colombia.” They are the descendants of African captives trafficked across the Atlantic in the sixteenth century and forced to work the province’s infamous riverine gold mines, which are surrounded by dense rainforest.¹⁴ Following recessions in the gold-mining industries of the southwestern Cauca Valley and western province of Antioquia that were established as early as the sixteenth century, it was not until the late seventeenth century that Spanish colonists began to effectively colonize Chocó and introduce the first *cuadrillas* (slave gangs) into the region’s gold mines.¹⁵ By the early-to-mid eighteenth century, Chocó transformed, from an almost impenetrable indigenous territory into an enslaved mining frontier noted for its absentee owners. By 1724, 2,000 enslaved people, the majority of them *bozales* (African-born captives), worked the gold mines. However, after an economic crisis hit the mines in the 1750s and 1760s, Chocó’s social demography shifted by the late eighteenth century. A sizeable free black population developed thereafter: of the 14,662 residents recorded in 1778, during the first major census conducted in the region, 332 were *blancos* (2 percent), 5,414 were *indios* (37 percent), 5,756 were enslaved (39 percent), and 3,160 were *libres*, or free blacks (22 percent).¹⁶ By 1808, Chocó’s population had transformed from primarily enslaved to majority free black, a population that had multiplied fivefold from 1778 to 15,184, making up 61 percent of the northern Pacific lowlands’ total population. Chattel slavery nevertheless remained central to the lowland gold-mining economy, as Chocó’s 400 resident whites (1 percent of the total population) ruled over 4,968 (20 percent) enslaved lowlanders, alongside 4,450 indigenous people (18 percent) who supplied canoes and food

14. Aviva Chomsky, “The Logic of Displacement: Afro-Colombians and the War in Colombia,” in *Beyond Slavery: The Multilayered Legacy of Africans in Latin America and the Caribbean*, ed. Darién J. Davis, 168.

15. Caroline Williams, *Between Resistance and Adaptation: Indigenous Peoples and the Colonisation in the Chocó, 1510–1753* (Liverpool: Liverpool University Press, 2005); Vicente Restrepo, *Estudio sobre las minas de oro y plata de Colombia*, 2nd ed. (Bogotá: Imprenta de Silvestre y Compañía, 1888), 22–23.

16. Anthony McFarlane, *Colombia before Independence: Economy, Society, and Politics under Bourbon Rule* (Cambridge: Cambridge University Press, 1993), 74–77, 81–82; Sharp, *Slavery on the Spanish Frontier*, 21–22, 119–188; Germán Colmenares, “La economía y la sociedad coloniales, 1550–1800,” in *Nueva Historia de Colombia, Tomo I* (Bogotá: Planeta, 1989), 123–124; Sergio Antonio Mosquera Mosquera, “Los procesos de manumisión en las provincias del Chocó,” in *Afrodendientes en las Américas: trayectorias sociales e identitarias: 150 años de la abolición de la esclavitud en Colombia*, Claudia Mosquera Rosero-Labbé, Mauricio Pardo, and Odile Hoffmann, eds. (Bogotá: Universidad Nacional de Colombia, 2002), 99; Hermes Tovar Pinzón, Jorge Andrés Tovar Mora, and Camilo Ernesto Tovar Mora, *Convocatoria al poder del número: censos y estadísticas de la Nueva Granada, 1750–1830* (Santafé de Bogotá: Archivo General de la Nación, 1994), 353–357.

to the mining camps.¹⁷ After the adoption of the 1821 gradual emancipation law, the inhabitants of this majority free black province encountered a new mode of bondage rendered possible by the Free Womb law and economical by the Free Womb trade.

The first section of this article examines the construction of the Free Womb trade principally through the legislative debates at the Congress of Cúcuta in 1821. The last two sections explore how the Free Womb trade functioned on the ground in Chocó. Utilizing a rich source base including hundreds of notes of sale, mining inventories, last wills and testaments, dowries, and mortgages, among other records of everyday economic and social life, the second section reveals the powerful operations of the Free Womb trade within the province. Finally, the last section draws on a court case and assorted notarial records to provide an intimate view into the local Free Womb trade. It focuses on one enslaved mother's legal battle to remain with her Free Womb daughter within the province, assisted by a municipal judge who, perhaps surprisingly for some readers, refused to execute the letter of the Free Womb trade's law.

THE MAKING OF THE FREE WOMB TRADE AT THE CONGRESS OF CÚCUTA, 1821

Over the course of three weeks in June and July of 1821, more than 45 delegates from Colombia's and Venezuela's prosperous late-colonial elite, including small- and medium-sized slaveholders, debated slavery's future at the Congress of Cúcuta.¹⁸ José Félix de Restrepo, a revolutionary republican lawyer, educator, and slaveholder from the western Colombian province of Antioquia, initiated the debate by proposing a gradual emancipation law. Restrepo's proposed law at the Congress of Cúcuta was largely modeled on an earlier law that he crafted and helped pass in revolutionary Antioquia, then under the leadership of President-Dictator Juan del Corral, in 1814. At the center of the Antioquia law of 1814 was a "Free Womb" law that "freed" all children born from enslaved women but bonded them to their mothers' masters until the age of 16 as compensation for their rearing.¹⁹

17. Sharp, *Slavery on the Spanish Frontier*, 199.

18. It is difficult to assess the exact social strata of the slaveholders who composed the Cúcuta delegates. Nevertheless, some delegates were smaller to medium-sized holders. Restrepo, for example, once possessed 12 slaves. Another delegate, Francisco Pereira, claimed to only own one slave, while Domingo Briceño y Briceño claimed 14 slaves. See Edgardo Pérez Morales, "Itineraries of Freedom: Revolutionary Travels and Slave Emancipation in Colombia and the Greater Caribbean, 1789–1830" (PhD diss.: University of Michigan, 2013), 98; and Congreso de Cúcuta, 1821, Session of June 28, *Libro de Actas*, Act 56. Carlos Restrepo Piedrahita writes that the exact economic position of each delegate at Cúcuta is unclear, but notes that property ownership over 5,000 pesos or an annual income over 500 pesos was a requirement for election to the Congress of Angostura. See Restrepo Piedrahita, *El Congreso Constituyente de la Villa del Rosario de Cúcuta*, 97.

19. On Corral, see Pérez Morales, "Itineraries of Freedom," 10, 58, 96–105, 114–118, 181–182; and Ramón Correa, *Biografía de don Juan del Corral* (Medellín: Universidad Pontificia Bolivariana, 2009). For the entire 1814

Seven years later, in 1821, Restrepo proposed a similar but now national project of gradual emancipation at the Congress of Cúcuta. Like the Antioquia law of 1814, Restrepo's proposed law centrally featured a Free Womb clause whose parameters were fiercely contested by delegates.²⁰ Two key issues regarding the Free Womb law emerged at Cúcuta: the age of emancipation for Free Womb children and the conditions of their salability. After weeks of tense deliberation, the former issue was settled when delegates finally voted 28-17 to fix the age of emancipation for Free Womb children at 18; the final vote's margin reflects the law's controversial nature.²¹ The resolution of the second of the two issues, as we shall soon see, would materialize into what would become the Free Womb trade.

With the Free Womb children's age of emancipation established, Cúcuta delegates grappled with the conditions of these children's salability. In the course of this debate, two interconnected issues arose: the terms under which a Free Womb child could be removed from a master's dominion, and whether a mother and child could be separated for sale. José Félix de Restrepo proposed that designated individuals could "withdraw" the child prior to the age of 18 by providing their master with a "just compensation for the alimentos" that had been provided for the child while under the master's dominion. Crucial to Restrepo's proposal, however, was *which designated individuals* were authorized to "withdraw" the child from the master's dominion. As per Restrepo's original proposal, only "the parents or relatives of the [Free Womb child] or persons not of kin" could claim the child from their master.²² Regarding the first two group of people ("parents or relatives"), Restrepo proposed something analogous to a Free Womb self-purchase mechanism, insofar as relatives would be able to buy the "withdrawal" of their Free Womb kin from their master. However, in the case of an enslaved person's self-purchase, the slave repaid the master's investment for her very being. For the Free Womb child, by contrast, "alimentos" were theoretically the only object of repayment.

Yet, in addition to parents and relatives, Restrepo proposed granting the right of removal to "persons not of kin" (*extraños*), which meant that slaveholders unrelated to the Free Womb child were legally empowered to acquire the child

Antioquia law, see Guillermo Hernández de Alba, *Vida y escritos del doctor José Félix de Restrepo* (Bogotá: Imprenta Nacional, 1935), 69–73.

20. For Restrepo's proposed law, see Congreso de Cúcuta, 1821, Session of May 28, *Libro de Actas*, Act 26, and for Restrepo's speech in which he proposed the national gradual emancipation law, see Restrepo, "Discurso sobre la manumisión de esclavos pronunciado en el soberano Congreso de Colombia reunido en la Villa del Rosario de Cúcuta en el año de 1821."

21. Congreso de Cúcuta, 1821, Session of July 9, *Libro de Actas*, Act 69.

22. Congreso de Cúcuta, 1821, Session of May 28, *Libro de Actas*, Act 26.

from another master. This clause thus laid the legal groundwork for a Free Womb trade and created another category of salable human beings. The Free Womb child was not explicitly considered a slave, but like a slave could be bought and sold on the marketplace. Fellow Cúcuta delegate and Venezuelan priest Antonio María Briceño argued that it was essential to firmly stress the rights of non-kin. To this end he proposed slightly modifying the language of Restrepo's article on this point from "*los padres o parientes del esclavo o extraños*" (the parents or relatives of the slave or persons not of kin) to "*los padres, los parientes u otros extraños*" (the parents, relatives or *other* persons not of kin). This seemingly minor modification emphasized that "*other* persons not of kin," as opposed to simply "persons not of kin," could acquire the children, by which Briceño forcefully underscored the purchasing powers of non-kin slaveholders. The congress adopted Briceño's proposal for the final version of the law, codified in Article 3 of the 1821 law, which reveals that a majority of delegates sought to clarify the Free Womb child's salability. There were some vocal opponents to this emphasis on salability. While the Bogotano delegate Miguel Tobar was in favor of extending the Free Womb child's age of bondage during earlier debates, he protested Briceño's amendment, because it meant that "any stranger would be authorized to take advantage of the labor of the youth."²³

Yet, while the final law secured the Free Womb trade, it also set specific conditions for its operation. José Félix de Restrepo originally proposed a clause that prohibited separating through sale enslaved mothers from their Free Womb children who had not yet reached the age of *pubertad* (puberty), left unspecified by Restrepo.²⁴ Fellow delegate and Antioqueño lawyer José Manuel Restrepo was seemingly perturbed by this proposition. In response, he suggested amending the clause to only ban the sale of slaves apart from their prepubescent Free Womb children "outside their province," thereby expanding Félix de Restrepo's proposal to allow for trade in individual prepubescent Free Womb children at the provincial level.²⁵ In both Restrepos' proposals, there would be no restrictions on family separation once the child reached the age of puberty. José Manuel Restrepo's proposed changes were included in the final version of the law. Article 5 of the 1821 law specified that it would "not be lawful to sell any slaves outside the province in which they reside, separating

23. Congreso de Cúcuta, 1821, Session of July 9, *Libro de Actas*, Act 69.

24. See Article 5 of Restrepo's proposed law in Congreso de Cúcuta, 1821, Session of May 28, *Libro de Actas*, Act 60. Puberty served as an important de facto marker in the individual lives of enslaved peoples. As Steven Mintz notes, former slaves in North America were initially confronted with the brutal labor of chattel slavery "before or around puberty." See Steven Mintz, "Children in North American Slavery," in *The Routledge History of Childhood in the Western World*, Paula S. Fass, ed. (New York: Routledge, 2013), 338.

25. The original read "fuera de la provincia en que se hallen." Congreso de Cúcuta, 1821, Session of July 2, *Libro de Actas*, Act 60.

the children from their parents; this prohibition however shall only be in force until the children have attained the age of puberty.”²⁶

The decision to legalize the prepubescent Free Womb trade at the provincial level reflected the profound importance of the province as a distinct political unit during and after the Wars of Independence in the northern Andes. The number of provincial juntas exploded after 1810 as news of the Napoleonic invasion in Spain and King Ferdinand VII's abdication in 1808 made its way across the Atlantic. Reflecting the deeply regional politics of the time, several provinces formed a federalist government called the United Provinces of New Granada, in November 1811. By the early-to-mid 1820s, this local, provincially based politics evolved into a politics of federalism that championed regional autonomy and decision-making, against that of centralism.²⁷ In turn, a provincially based, prepubescent Free Womb trade secured the operations and mechanics of the trade at the regional level, which would undoubtedly be favorable to slaveholders who may have feared the repercussions of a blanket prohibition of family separation at the local level.

The exact “age of puberty” was not explicitly designated in the final law. Cúcuta deputies might have left the “age of puberty” vague to place more control over the law's application at the local level, leaving the question a matter of controversial interpretation between individual masters and parents of Free Womb children. Informally, there was general consensus among Colombian slaveholders that slaves reached puberty somewhere between 12 and 14 years of age. For example, the prominent Popayán slaveholder Gerónimo Francisco de Torres remarked as an aside in his pamphlet against the 1821 gradual emancipation law that an enslaved woman reached puberty at 12 years of age, while one slaveholder from the Pacific lowlands, owner of the Rapsadura mine, cited the age at 14 during a discussion of the mine's inventory in 1834.²⁸ Torres's specific reference to a female suggests that the delegates might have failed to designate a particular age of puberty in recognition of the gendered nature of puberty, attained at different ages by different sexes.

The law's reference to “puberty” further reflected the Enlightenment-era intellectual spirit of the Cúcuta delegates. While the term *puberty* dates back to

26. Congreso de Cúcuta, 1821, Session of July 19, *Libro de Actas*, Act 84.

27. Michael LaRosa and Germán R. Mejía, *Colombia: A Concise Contemporary History* (Lanham: Rowman & Littlefield Publishers, 2012), 19–21; Bushnell, *The Making of Modern Colombia*, 50–73.

28. Gerónimo Torres, *Observaciones de G. T. sobre la ley de manumisión del soberano congreso de Colombia* (Bogotá: José Manuel Galagarza, 1822), BNC, 17; Archivo Central del Cauca [hereafter ACC], 1833, República CF-13mn 4316, fol. 39r. As a point of reference, the 1826 Consolidated Slave Law in the British Caribbean “demarcated age ten as the end of sexual innocence and the start of sexual maturity for enslaved girls.” See Sasha Turner, *Contested Bodies: Pregnancy, Childrearing, and Slavery in Jamaica* (Philadelphia: University of Pennsylvania Press, 2017), 216.

the Roman period (deriving from the Latin *puberatum* or *pubertas*, meaning “age of maturity”) and can be found in the medieval Castilian code *Siete Partidas*, puberty as a classificatory problem of scientific inquiry developed only in the eighteenth century.²⁹ One of the best-known Enlightenment proponents of the scientific idea of puberty was the French philosopher Jean-Jacques Rousseau, whose famous educational treatise *Émile ou De l'éducation* (1762) was grounded in a “physiology of puberty.”³⁰ Moreover, the category of puberty—a not uncommon category of import in legal medicine throughout the Spanish empire—may have reflected the medical jurisprudential backgrounds of some of the Cúcuta delegates as well.³¹

Unlike the Colombian law, other gradual emancipation laws across the nineteenth-century Atlantic World authorized the separate sale of the children at a designated age (in fact, Colombia had the only such law featuring a “puberty” clause).³² For example, the Argentine law of 1813 stipulated that a child could be sold without their mother after age 2, while the 1856 law in the Portuguese West African territories specified that such children could be sold after age 7.³³ One legislative project debated in the House of Representatives in Uruguay in 1838 even proposed regulating sale prices for individual “Free Womb” children, with one-year-olds sold for 30 pesos and 12-to-16-year-olds for 100 pesos—in some ways constituting a kind of Free Womb market regulation.³⁴ Gradual emancipation laws in late nineteenth-century Brazil and Cuba specified that Free Womb children could not be sold apart from their enslaved parents before the ages of 12 and 14, respectively.³⁵ Nevertheless, turning to the practice and implementation of the Free Womb trade in Colombia at the provincial level, the following section explores the commerce

29. Bianca Premo, *Children of the Father King: Youth, Authority, and Legal Minority in Colonial Lima* (Chapel Hill: University of North Carolina Press, 2005), 28; Mary McAlpin, *Female Sexuality and Cultural Degradation in Enlightenment France: Medicine and Literature* (London: Routledge, 2016), 1; Helen King, *The Disease of Virgins: Green Sickness, Chlorosis and the Problems of Puberty* (London: Routledge, 2009), 84–86.

30. McAlpin, *Female Sexuality*, 9.

31. I thank Elise A. Mitchell, Marcela Echeverri, and Brandi Waters for bringing this to my attention. For more on legal medicine and the category of puberty in the early modern world, see Diederik E Janssen, “*Puer barbatus*: Precocious Puberty in Early Modern Medicine,” *History of Medicine and Allied Sciences* 76:1 (January 2021): 20–52.

32. For other gradual emancipation laws with Free Womb clauses in the late eighteenth and early nineteenth-century Atlantic World, see www.thefreewombproject.com.

33. For the Argentine stipulation, see Article 5, Reglamento para la educación y ejercicio de los libertos, 22. For the Portuguese stipulation, see Article 5, Lei de 24 de julho de 1856, declarando livres os filhos que nascerem de mulher escrava, in *Relatório do Governador Geral da Província de Angola, Sebastião Lopes de Calheiros e Menezes, Referido ao anno de 1861* (Lisbon: Imprensa Nacional, 1867), 436.

34. See Article 2 of “Proyecto de ley,” in *Actas de la H. Camara de Representantes, 1°, 2° y 3° Periodos de la General Legislativa y Prórroga Extraordinaria*, Tomo III, Años 1837–1841 (Montevideo: Imprenta “El Siglo Ilustrado” de Turenne, Varzi y Cía), 1906. For more on the Free Womb law in Uruguay, see Borucki, *Abolicionismo y tráfico de esclavos en Montevideo*.

35. Cowling, *Conceiving Freedom*, 101.

in and circulation of Free Womb children within the geographical confines of the northern Pacific lowland province of Chocó.

LEGALIZED CAPTIVITY: THE COMMERCE IN FREE WOMB CHILDREN IN CHOCÓ

The Free Womb market operated in intimate connection with the slave trade in Chocó, a riverine province known for its vast rain forest, hundreds of rivers and tributaries, endless downpours, and rich gold mines. It could take several days to travel from the gold-mining camps along the province's winding rivers to arrive at Quibdó, the region's small capital and center of the local trade in human flesh, a journey that enslaved people and Free Womb children knew well. While occupying a legal category distinct from that of their enslaved kin, Free Womb children were typically sold alongside their enslaved mothers throughout key sites of Quibdó. Free Womb children could be sold in the town's rugged plaza, where the *pregonero público* (town crier) auctioned off deceased locals' properties, including enslaved people and their Free Womb kin.³⁶ The city notary's office was the central commercial clearinghouse for the regional slave and Free Womb trade. Masters and mistresses, or their legal representatives, were required to report to this office to record their transactions, which protected the parties from any potential legal complications. Notaries also regularly executed notes of sale in the lowland masters' homes in case of their illness or other extenuating circumstances. The Free Womb trade thus cannot be physically extricated from the slave trade.

Although it experienced ebbs and flows, the slave trade continued to thrive in Chocó during the era of gradual emancipation. From 1828, the year in which the first notarial records are available for the republican period, to 1851, 510 enslaved people were bought and sold before the city notary.³⁷ As a point of comparison, 573 enslaved people were purchased in the Caribbean port city of Santa Marta from 1821 to 1851, while 825 were sold in Cartagena from 1814 to 1852, and 1,596 in the Andean capital of Bogotá from 1819 to 1851; these statistics represent longer periods of time in larger, more centrally located Colombian cities than Quibdó.³⁸ Scattered notarial records reveal that 191 enslaved people were purchased in Quibdó between 1810 and 1819. Thus,

36. For reports of slave auctions in Quibdó, see Notaría Primera de Quibdó [hereafter NPQ], 1813: 24v-26v, 28v-30v, 98r-99v; 1814: 12r-13r; 1831: 64r-66v; 1832: 86v; 1843: 88v; 1845: 99v-100v; 1846: 61v; 1847: 48r.

37. Two years (1830 and 1834) were missing when I consulted the NPQ records in 2010. Unfortunately, the NPQ also lost the records from 1820 to 1827. During the late 1840s and into the early 1850s, the slave trade practically fell out of operation in Quibdó.

38. For statistics on Santa Marta, see Dolcey Romero Jaramillo, *Esclavitud en la Provincia de Santa Marta, 1791-1851*, 63. On Cartagena, see Dianis Hernández Lugo and Sandra Taborda Parra, "De la esclavitud a la liberación: esclavos, manumisión y abolición en Cartagena 1814-1860," *Revista Cambios y Permanencias* 4 (2013): unpaginated. On

from 1810 to 1851, at least 700 enslaved people were sold in Quibdó.³⁹ Given the incompleteness of these records, which are missing crucial years in the local slave trade, it is even possible that Quibdó saw the sale of as many enslaved people as did Cartagena, if not more. The similar rates of sale for Quibdó and larger Caribbean slave ports like Santa Marta and Cartagena reveal chattel slavery's overall strength in Chocó's economy under the period of gradual emancipation.

While not legally considered slaves, Free Womb children were still fungible commodities that required pricing. The national gradual emancipation law had a mechanism for this, as the previous section explored. Article 3 stipulated that "persons not of kin," including other masters, could "withdraw" a Free Womb child from their master by offering a "just compensation for the alimentos"—in the form of education, clothing, and food—that had been provided by the master. As to assigning a monetary value to the alimentos, the law specified that this would be determined either by a "private agreement" between master and buyer or by the "prudent decision of a judge." Strictly speaking, buyers on the Free Womb market were not purchasing the very person of the enslaved human—they were buying the debt incurred by the master for the Free Womb child's alimentos. Strictly speaking, this meant that all purchases made on the Free Womb market established relations of debt bondage. That the Free Womb child had to compensate in turn, with their "labor and service," the person who had paid the cost of their previous master's alimentos meant that this system in practice amounted to slave labor. As the slaveholder Gabriel Andrade emphasized to the buyer of the enslaved mother María Rosa and her two Free Womb children in 1831, the children were "under the concessions of the Law of Manumission, which is to say, that they are obliged to serve [the buyer] until the age determined by the law."⁴⁰

Although the children's procurement was almost always discussed in terms of debt accrued for alimentos, masters sometimes explicitly deployed the language of property. This happened only twice in more than 20 years of records of sale maintained by the notary of Quibdó.⁴¹ In one such instance recorded in 1835, under the title "Property of a black girl free by the law," doña Rosa del Pino

Bogotá, see Antonio José Galvis Noyes, "La esclavitud en Bogotá, 1819–1851," *Boletín de Historia y Antigüedades* 67:729 (1980): 344.

39. These statistics were calculated by counting the sale of enslaved peoples in available records from the NPQ during the Independence period, including the years 1810, 1813–15, and 1818–19. Some of these records are incomplete due to damage.

40. NPQ, 1831: 45r.

41. In other records, like lawsuits, the Free Womb children are also explicitly referred to as property. For example, see ACC, 1835–1836, República JIV-6cr 3845, fol. 4r. The Free Womb children were also explicitly referred to as slaves ("dichos esclavos") during the Congress of Cúcuta. See Article 4 of Restrepo's proposed law in Congreso de Cúcuta, 1821, Session of May 28, *Libro de Actas*, Act 60.

declared that she would “desist, renounce, and transfer the property rights of *la negrita* Petrona that through alimentos has been granted to [Pino] by the Law of Manumission.”⁴² Similarly, after receiving more than 100 pesos, another lowland slaveholder transferred the “property rights granted to him over Candido according to Article 2 of the Law of Manumission of slaves declared on July 21, 1821,” which stipulated that Free Womb children would “compensate their mother’s masters” by being bound to them until the age of 18.⁴³ Neither Article 2 nor any other of the law’s articles officially endowed “property rights” to the master; both these slaveholders were merely making explicit what was fundamentally implicit.⁴⁴ As George Reid Andrews argues in the case of “Free Womb” children in revolutionary Buenos Aires, “In theory it was the right of patronage and the right to the *liberto*’s services that changed hands, but in practice it was a human being who was being sold, despite the fact that he might be theoretically free.”⁴⁵ The slippage in language reveals that lowland slaveholders ultimately believed Free Womb children to be chattel property.

The Free Womb law left implicit the children’s status as property, and it sometimes left ambiguous the price to be paid on the market. This ambiguity resulted when slaveholders had different assessments as to the actual economic value of the alimentos to be compensated on the Free Womb market. This can be seen especially in inventories from throughout Chocó containing Free Womb children. In some of these, masters and mistresses did not assign prices to the Free Womb children. In one 1828 inventory, the value of a young Free Womb child could not be assessed “because he was born under the law.”⁴⁶ Likewise, an 1831 inventory of a gold mine owned by the deceased slaveholder Antonio García y Falcón listed prices for enslaved miners but appraised the value of their Free Womb children at “0000.”⁴⁷ The same was true for an 1832 inventory from the Rspadura gold mine.⁴⁸ A later record from this mine, from 1834, clarifies the reason for this practice: the owners claimed to be unable to appraise the 113 Free Womb children because their alimentos could not be determined until the moment the children left their master’s dominion.⁴⁹

42. NPQ, 1835: 205v.

43. NPQ, 1837: 81v-82r.

44. Similar moves to treat Free Womb captives as property were evident in New Jersey as well, after implementation of the state legislature’s gradual abolition law in 1804. See Gigantino II, *The Ragged Road to Abolition*, 99–100.

45. Andrews, *The Afro-Argentines of Buenos Aires*, 49.

46. ACC, 1845, República JIII 8em 4026, fol. 17r.

47. NPQ, 1827: 1v-3v.

48. ACC, 1832, República CI-13mn 4300, fols. 6v-11r.

49. ACC, 1833, República CI-13mn 4316, fol. 36r.

In other words, while the enslaved person had a more or less fixed price—a price, nevertheless, that would be affected by factors such as age and health—the value of the Free Womb child was constantly shifting.⁵⁰ Some slaveholders did appraise the children, as did the executors of the Tutunendo mine, on Quibdó's outskirts.⁵¹ Still, the practice of not assessing Free Womb captives continued into the 1840s; in one 1846 inventory, a slaveholder noted that the Free Womb child he owned was “without appraisal for being a *manumitida*,” a term that slaveholders in Chocó increasingly used to refer to Free Womb children.⁵² Only when the child reached the age of 18 would their value fall back to zero, a phenomenon evident in the inventories of the deceased slaveholder Santiago Chaverra. Appraising his properties in 1843, Chaverra's executors stated that they should terminate “the value of 226 pesos for the manumitido Saturnino, who has reached the appropriate age and is removed from servitude; [in addition to] Eulogia and Juana, who have about two months left before they leave.”⁵³ As the older children reached the age of majority, they would age out of this particular form of unfreedom, while the younger children were increasingly treated as financial assets whose value and *alimentos* increased over time. In some ways, the Free Womb child's financial cycle was an even more compressed version of the slave's cycle, whereby their value would appreciate and ultimately decline over time.⁵⁴

Although slaveholders occasionally purchased Free Womb children by themselves, most of the time they purchased mother and child together, transforming them into a single productive unit. In the available notarial records of Quibdó from 1828 to 1851, there were eight sales of Free Womb children sold on their own and 78 involving Free Womb children alongside their mothers. On the other hand, it was understood that the offspring of Free Womb children were not assets and thus did not circulate in the Free Womb market. This appears to have been an informal understanding, given that the 1821 law and subsequent national legislation did not formally address the matter.

In fact, there is only one instance in the Pacific lowlands in which the offspring of Free Womb children was discussed. In an 1844 inventory of the Tutunendo mine, the assessor noted the need to “exclude from the inventory and assessment [of the

50. As Daina Ramey Berry notes, the “sale price [of a slave] was a different form of valuation than an appraisal. It reflected the market value of a person at a specific moment.” See Daina Ramey Berry, *The Price for Their Pound of Flesh: The Value of the Enslaved, from Womb to Grave, in the Building of a Nation* (Boston: Beacon Press, 2017), 41.

51. ACC, 1837–1840, República CI-13mn 4385, fols. 8r-10v; ACC, 1844, República CI-13mn 4366, fols. 4r-6r.

52. NPQ, 1846: 89r. By the late 1830s and especially during the 1840s, Free Womb children were increasingly referred to as *manumitidos* or *manumisos* (manumitted slaves), terms dating from the colonial period.

53. NPQ, 1843: 99v-100v.

54. Wilma King, *Stolen Childhood: Slave Youth in Nineteenth-Century America*, 2nd ed. (Bloomington: Indiana University Press, 2011), 51.

mine] José Romelio, eight months old, for being informed that he is a child of a [Free Womb woman], and thus not subject to appraisal or belonging to the mine.”⁵⁵ This implicitly suggests that Romelio belonged to someone else, namely, his Free Womb mother.

This absence of uproar over the status of Free Womb captives’ children stood in sharp contrast to the reactions in other parts of the Atlantic World under Free Womb legislation. In New Jersey, for example, slaveholders in several counties vehemently complained that the state’s Abolition Act of 1804 infringed on their right to the services of their Free Womb captives’ offspring.⁵⁶ Likewise, there are documented cases of masters successfully imposing Free Womb status on Free Womb captives’ children in Buenos Aires during the age of gradual abolition. Paulina L. Alberto has referred to these affected children as “second-generation [*liberto/as*].”⁵⁷

Over time, Free Womb captives were incorporated into the everyday business practices of Chocó, whether in wills, gifts, dowries, inventories, mortgages, or notes of sale—the definitive manifestation of their proprietary nature. By the 1830s, they began to appear regularly in slaveholders’ last wills and testaments throughout the province, included among a diverse set of properties. At times, they were identified alongside their mothers and siblings, as in the will of Leonarda Palacios, a single mother of four and a small landholder from Quibdó in 1833. After declaring the locations of her various tracts of land, she claimed to own four slaves named Josefa, Manuel José, Feliciana, and Ramona, adding that Ramona had “*un hijo libre por la Ley*” (a child free under the Law) named Juan José, and a daughter “*mucho también libre por la Ley*” (also very much free under the Law) named Florencia.⁵⁸ The seemingly casual reference to “also very much free,” as opposed to simply “free,” may have signaled an attempt by someone (perhaps the mother, Ramona) to emphasize Florencia’s special Free Womb status. Fourteen years later, in 1847, doña Palacios’s revised will made no mention of the children, who might have purchased their full freedom in the meanwhile or been sold to a new patron. The revised will still included their mother, “a slave named Ramona, who cannot be sold or freed for more than 100 *patacones*.”⁵⁹

However, Free Womb youth were not always listed in wills alongside their enslaved mothers and kin, given that they could be legally tradable separately

55. ACC, 1844, República CI-13mn 4366, fol. 6v.

56. Gigantino II, *The Ragged Road to Abolition*, 109, 112.

57. Alberto, “*Liberta by Trade*,” 633.

58. NPQ, 1833: 35r.

59. NPQ, 1847: 128r.

within the province regardless of pubescence. In his 1839 last will and testament, Estevan Palacios declared that he had acquired several properties during his second marriage, to a local woman. These properties included a straw house with a plot of land extending nearly 12 yards near the center of Quibdó, gold jewelry worth 60 pesos, seven large pigs, and a Free Womb girl named María Rosa, in addition to other implements such as a large iron pot and mining tools.⁶⁰ In 1844, the small shop owner Rufino Villanueva listed among his properties a slave named Matias, “who ran away fifteen months ago”; another slave named Ubalda; and the Free Womb child Casimiro.⁶¹ The will of Carlos Salazar, from 1848, is perhaps one of the bolder examples demarcating the natal estrangement of the children. Immediately after announcing his desire to be buried in the mining town of Lloró’s cemetery, Salazar requested that his two “*negritos manumitidos*,” Miguel and Juan José, be sold as his property and that the money be used toward masses for the rest of his soul.⁶²

Much as they did with slaves, masters also bequeathed the Free Womb children to their own children, siblings, and other kin, in last wills and testaments. Doña Barbara Polo left her daughter Margarita several hundred pesos and, along with the enslaved couple Felix and Juana, their children Pascacio and Petrona who “are free by the law.”⁶³ Likewise, the slaveholder Mariana Trejo declared in her will that she owned two enslaved families with Free Womb children, one of which was comprised of the enslaved couple Juan and Gregoria and their “*hijos manumitidos*” Miguel and Elena. Trejo requested that her daughter be given the slave Juan; Juan’s wife Gregoria, along with her children, would be given to serve under doña Trejo’s son, Carlos Salazar.⁶⁴ This was the same Salazar who, as we have just seen, sold two “*negritos manumitidos*” to fund masses for the repose of his soul; one of those sold was Gregoria’s son Miguel. The story of Miguel, separated first from his enslaved father and later from his enslaved mother when sold to unburden his master’s sins, captures the legal and emotional labyrinths navigated by Colombia’s generation of Free Womb children technically born free.

These children were actively traded as part of the emotional economy of lowland slaveholders, who gave away the youths as gifts throughout the province. For “all

60. NPQ, 1839: 4v-5r. It is possible that María Rosa was the child of his slave, María Asención, who Palacios references further in his will, but this is not entirely clear. See NPQ, 1839: 5v. Typically, if individuals were related, especially mother and son, it was made explicit in the records, which is why it is likely that María Rosa was not the daughter of María Asención.

61. NPQ, 1844: 78r. Similarly, it is possible that Ubalda was Casimiro’s mother, but this was not claimed in the record.

62. NPQ, 1848: 70v-71r.

63. NPQ, 1838: 14v-15v.

64. NPQ, 1844: 64r-v.

the love and affection he professes to have for his daughter Silvia,” the *vecino* Juan Bautista Siguesa in 1841 gave his daughter the slave Micaela and her two children “free by the law,” José Eugenio and Doroteo.⁶⁵ In a similar expression of “love,” the elderly Leonor Machado presented her grandson Eliseo López, “for the respect and good services that he provides for her,” with a Free Womb child named Ysidro, along with a total of nine cows and half a pound of gold jewelry, among other possessions.⁶⁶ The priest Manuel María Ochoa rewarded the “good services” of his loyal parishioner Manuela Valencia and her children by granting them the slave Vicitación and her “manumitido” son Domingo, whose combined value was 350 pesos, in addition to two other Free Womb children, Natividad and Lorenza (assessed at 80 and 30 pesos, respectively).⁶⁷

The Free Womb children included in dowries played an important role in differentiating between two classes of Chocó’s elite. Of the nine complete dowries available today in the notarial archive in Quibdó, six consisted of more than 1,000 pesos, reflecting the elite nature of this practice. The highest dowry consisted of 10,000 pesos, granted to Natividad Vidal, the *hija natural* (daughter born out of wedlock) of the prominent mistress and slave trader María Cruz de Vidal. But the young Josefa Álfaro’s dowry was more indicative of the typical well-to-do family in Chocó. In 1829, Álfaro and her partner received not only a house valued at 2,000 pesos in the center of Quibdó but also five slaves.⁶⁸ Interestingly, none of the dowries worth more than 1,000 pesos included Free Womb children (or at least children explicitly identified as such). In contrast, all three dowries valued at 1,000 or below featured Free Womb children. Thus María Ambrocio Ospina’s far more modest 240-patacones dowry included a tract of land on the Sanmurindó River, half of a house in the village of Lloró, and two young Free Womb children, assessed at 30 and 20 patacones respectively.⁶⁹ Cheaper to acquire than chattel slaves, Free Womb children facilitated a second-tier class of mistresses within the province. This reflected more general trends within the transatlantic slave trade, where children were at times the “chattel of choice” for less wealthy buyers unable to afford the price of enslaved adults.⁷⁰

As capital, the youth, in conjunction with their mothers or other slaves, were also used as collateral in mortgages between affluent merchants in Quibdó. In 1839, the wealthy miner Francisco E Vetancur, son of a famous Spanish royalist official

65. NPQ, 1841: 59r.

66. NPQ, 1844: 7v-8r.

67. NPQ, 1845: 35v-36r.

68. NPQ, 1829: 83v; 1835: 104r-105v.

69. NPQ, 1843: 24v-25v.

70. King, *Stolen Childhood*, 9.

in Chocó named don Melchor de Varona i Vetancur, owed 1,600 pesos to Nicolas Bonolí, an Italian slave trader and merchant living in Quibdó whose small slaving empire extended from the Pacific coastal jungles of Chocó to Cartagena and Jamaica. As part of his pledge of repayment, Vetancur mortgaged the enslaved couple Marcos and María Antonia and their daughter Mercedes, “free by the law,” in addition to a woman named Ysabel and her daughter Benancia, also “free by the law.”⁷¹ In the notarial records, the Free Womb children never appear as collateral separate from their enslaved mothers, which suggests that the children served as a commercial appendage increasing the total value of the mother.

Yet, the parameters of the Free Womb children’s commercialization would expand throughout the nation in the wake of Colombia’s first civil war in 1839, popularly known as the War of the Supremes. Beginning in late June 1839, this wave of federal rebellions and insurrections was sparked by the closure in early May of several monasteries in Pasto, a town in the southwestern province of Popayán, which was a royalist stronghold during the Wars of Independence. Led by the parish priest, locals revolted in response to the decision but were quickly defeated. Their cause was soon resurrected by the popular liberal caudillo and political rival of the central administration, José María Obando, who mobilized support from southwestern Colombia to counter Bogotá’s centralizing policies. Obando and other high-ranking liberal officers (known as *jefes supremos*, the source of the war’s popular name) bolstered their troop numbers by successfully recruiting free blacks and slaves in the region, offering the latter freedom if they enlisted.

Over time, the national state racialized the insurgent army by accusing them, as historian Francisco Zuluaga noted, of fomenting “caste war” with “aspects of an anti-slavery movement.”⁷² Meanwhile, centers of slavery like Popayán in the southwest reeled in the civil war’s aftermath. At the epicenter of the rebellion, the province saw its slaveholders allegedly lose 600,000 pesos in livestock, tools, money, expropriated provisions, and fugitive captives who joined

71. NPQ, 1839: 94v. For more on Vetancur’s father, see Mosquera Mosquera, *Don Melchor*.

72. Francisco U. Zuluaga R., “La guerra de los supremos en el suroccidente de la Nueva Granada,” in *Las guerras civiles desde 1830 y su proyección en el siglo XX*, Musco Nacional de Colombia, ed. (Bogotá: Ministerio de Cultura, 2001), 31. For more on Obando and the War of the Supremes, see Alonso Valencia Llano, *Dentro de la ley, fuera de la ley: resistencias sociales y políticas en el valle del río Cauca* (Cali: Universidad del Valle, 2008), 91–95; Fernán González, “La Guerra de los Supremos (1839–1841) y los orígenes del bipartidismo,” *Boletín de Historia y Antigüedades* (Bogotá), 97:848 (January–May 2001): 5–63; Álvaro Pone Muriel, *La rebelión de las provincias: relatos sobre la Revolución de los Conventillos y la Guerra de los Supremos* (Bogotá: Intermedio, 2003); Luis Ervin Prado-Arellano, *Rebeliones en la provincia: la Guerra de los Supremos en las provincias suroccidentales y nororientales granadinas* (Cali: Universidad del Valle, 2007), 140–260; María Camila Díaz Casas, *Salteadores y cuadrillas de malhechores: una aproximación a la acción colectiva de la ‘población negra’ en el suroccidente de la Nueva Granada, 1840–1851* (Popayán, Colombia: Editorial Universidad del Cauca, 2015), 91–103.

Obando's rebel forces.⁷³ The financial damages and racial fears resurrected southwestern slaveholders' calls to reform the 1821 law. The result of all these efforts was a law passed on May 29, 1842, that established for Free Womb children a system of *concertaje*, a mandatory apprenticeship program that would compel the generation of Free Womb children to work under a master until the age of 25. This meant seven more years of forced labor than proposed in the original Free Womb law.⁷⁴

Under these expanded parameters, Free Womb youth continued to be bought and sold after the 1842 law. In early 1846, for example, a wealthy lowland master sold to a local slaveholder several elderly and ill enslaved people alongside a group of Free Womb captives, which included:

Toricio, old and with a fistula; Antonia, old; Rudecinda, Salomé, Polonia, old and sick; Rumigia, Beatris, sick; Francisco Antonia, syphilitic; [and] the partos libres or manumitidos, Julian, Pedro Pablo, María Ynes, Mariano, Francisca, Celestino, Celia, Sista, Juana Roberta, Juana Cristoma, Sabad, Herbana, Manuel Agustin, María Santa, Yldefonso, [and] Doroteo, including the tools from the mine. . . selling the slaves and tools, and the services of the manumitidos . . . [for] 1,708 pesos.⁷⁵

This particular note of sale reflects the shifting state of Chocó's economy of flesh in the late 1840s. Burdened by "disposable people," the master was selling elderly and ailing slaves who now were an encumbrance.⁷⁶ The group of Free Womb captives included in the sale may have been part of a compromise with the buyer, who would also be receiving the dynamic, healthy labor of Free Womb children and adults in exchange for taking on the sickly and aged slaves. "While the sale of slaves in family groups kept slaves with their loved ones," Caitlin Rosenthal importantly reminds us that "it also had a pecuniary upside because it bundled the elderly and infirm with their more valuable kin."⁷⁷ The lowland mistress María Cruz de Vidal may have had this "upside" in mind when she purchased several elderly slaves and younger "Free Womb" captives in 1846 for the sizeable sum of 2,875 pesos. Vidal acquired the group of 16 lowland captives from José Gregorio Fernández, who appeared to be liquidating his human and gold-mining estates in Chocó throughout the mid-to-late 1840s.⁷⁸

73. Tovar Mora and Tovar Pinzón, *El oscuro camino de la libertad*, 48.

74. For the 1842 law, see Posada and Restrepo Canal, *La esclavitud en Colombia*, 425–431.

75. NPQ, 1846: 31v–32r.

76. Kevin Bale, *Disposable People: New Slavery in the Global Economy* (Berkeley: University of California Press, 1999).

77. Caitlin Rosenthal, *Accounting for Slavery: Masters and Management* (Cambridge: Harvard University Press, 2019), 141.

78. NPQ, 1846: 71r–73v. After 1846, Fernández handled business in Quibdó only through legal representatives, thereby reflecting liquidation. See NPQ, 1849: 28v–29r, 1851: 19v–20r, 37v–38r, 67r, 72v.

As this section reveals, a dynamic Free Womb trade and economy was powerfully forged at the provincial level. Yet, as the final section illustrates, despite the strength of the local Free Womb trade in Chocó, the full extent of its legal power was not entirely secure. The terms of the Free Womb trade could be successfully challenged in court, as evident in the final section, which focuses on the lawsuit lodged by an enslaved mother named Juana del Concilio and a sympathetic municipal judge.

“[I]N NO WAY CAN SHE BE SEPARATED FROM HER DAUGHTER”: THE FREE WOMB TRADE CHALLENGED

Soon after arriving in the world around 1830, the young child María Brigida became one of hundreds of Free Womb children sought after and trafficked in Chocó. For the first year or years of her life (the documentation is unclear), María Brigida and her enslaved mother, Juana del Concilio, were claimed by a prominent slaveholder and local official named Jacinto Alvares del Pino, who likely employed them in his gold mines. One of the more than 2,600 enslaved women who lived and labored in Chocó by 1835, María Brigida’s mother might have helped her daughter take her first steps or say her first words as she laboriously sifted through the sandy rocks of del Pino’s gold mines on the banks of the Negua River, just north of Quibdó.⁷⁹ Like many enslaved and captive families across the African diaspora, their fragile security as a family unit crumbled even further after their master passed away, most likely in 1835. Soon after his passing, the late master’s daughter, Maria Rosa Alvares del Pino, inherited the captive family and eventually made the decision to sell her father’s holdings. She hired the well-known slaveholding official and future governor of Chocó José Nicolás Castro as her *apoderado* (legal representative) to oversee the liquidation.⁸⁰

On December 3, Castro appeared before the Quibdó notary to finalize the sale of del Pino’s inherited pigs, a small table, six enslaved people, including Juana del Concilio, and three Free Womb children—not including the Free Womb girl María Brigida—to a slaveholder in the mining village of Nemotá in the province of Chocó.⁸¹ Instead of remaining with her mother, the young María

79. According to census records, there were 2,674 enslaved women, about 13 percent of a total population of 21,194 in Chocó in 1835. See Archivo General de la Nación, 1835, Sección República, Fondo Gobernaciones Varias, leg. 44, fols. 181r-182r. Young children often accompanied and assisted their parents, typically their mothers, as they panned the gold-rich rivers of the Pacific lowlands. On Jacinto Alvares del Pino’s slaveholdings, see NPQ, 1828: 25v, 1831: 121v, 1833: 61v; on his land and mine ownership, see NPQ, 1833: 65v; on his serving as the *alcalde primero*, NPQ, 1833: 108r-v.

80. On Nicolás Castro serving as del Pino’s *apoderado*, see NPQ, 1835: 204v, 205v-206r, 214r-v, 215v, 1836: 18r. On his slaveholding, see NPQ, 1846: 38v.

81. NPQ, 1835: 204v.

Brigida was sold off to a different master, a local mistress in the same village of Nemotá, who claimed several enslaved and Free Womb lowlanders with her husband.⁸² Although she had few resources and little power, Juana del Concilio swiftly turned to the court to wage a battle to retrieve her daughter.⁸³ On the day following the sale, and with the permission of her new owner, del Concilio protested the transfer of her Free Womb daughter to another master. In her verbal petition before the municipal judge of Quibdó, Mauricio Díaz, del Concilio argued that there was “no obstacle” that barred her new master from purchasing her daughter’s *alimentos*, an action that would allow her daughter to be sold to her mother’s new master and remain by her mother’s side. “[I]n no way can she be separated from her daughter,” del Concilio is said to have stated to the municipal judge.⁸⁴

After hearing Castro’s plea, the judge (whose response was not recorded) was apparently persuaded by the enslaved mother’s arguments and referred to parts of the 1821 gradual emancipation law to explain his decision. He specifically referenced part of Article 5, which prohibited the sale of prepubescent Free Womb children anywhere outside the province. The judge agreed that Juana del Concilio’s new master should purchase her daughter, “considering that the *muchacha* is only about four to five years old” and “that the mother needs to take care of her daughter who is young until she reaches the age of puberty in conformity with Article 5 of the Law of July 21, 1821.”⁸⁵

Technically speaking, the prepubescent María Brigida was not sold outside Chocó and thus her sale did not violate the 1821 law. While the judge likely knew the particulars of Article 5, he appears to have rejected the full conditions of the law and instead sided with the evocative matter of puberty. By claiming that she could in “no way. . . be separated from her daughter,” del Concilio powerfully claimed that she was exercising her right as a mother in her plea against their family separation. By agreeing with her demand, the municipal judge was

82. ACC, 1835–1836, República JIV-6cr 3845, fol. 10r. On Mercedes Ynser’s slaveholdings, see NPQ, 1832: 27r, 29r, 1836: 18r. Mercedes Ynser appears to have had a special family relationship with the del Pino family, which may have facilitated her purchasing of María Brigida. This is reflected in the fact that the del Pino patriarch, Jacinto Alvares del Pino, served as one of the witnesses to Mercedes Ynser’s husband’s last will and testament, a position often reserved for trusted individuals. For the testament of her husband (José Joaquín Alarcón), see NPQ, 1832: 38r–43r.

83. By petitioning the court to make her case for family reunification, Juana del Concilio joined thousands of enslaved people, especially women, who used the law under slavery and gradual emancipation to seek better lives and conditions for themselves and their families across time and the Americas. For examples of this legal activism, see Kimberly M. Welch, *Black Litigants in the Antebellum American South* (Chapel Hill: University of North Carolina Press, 2018); Michelle A. McKinley, *Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600–1700* (Cambridge: Cambridge University Press, 2016); Cowling, *Conceiving Freedom*; and Magdalena Candiotti, “Free Womb Law, Legal Asynchronies, and Migrations: Stuing for an Enslaved Woman’s Child in Nineteenth-Century Río de la Plata,” *The Americas* 77:1 (January 2020): 73–99.

84. ACC, 1835–1836, República JIV-6cr 3845, fol. 5r.

85. ACC, 1835–1836, República JIV-6cr 3845, fols. 5r–v.

likewise eschewing the full letter of the Free Womb trade's stipulations. He eventually ordered del Concilio's new master to pay Castro 50 patacones for the young girl's alimentos and Castro to bring María Brigida to her mother's new master, thereby reuniting the family.⁸⁶

It is not entirely clear why the municipal judge, Mauricio Díaz, decided to ignore the geographical stipulations of the Free Womb trade and selectively side with the puberty clause. Certainly, the judge's decision to reject the letter of the law followed a Hispanic juridical culture lasting into the early republican period that favored interpretations and adaptations of the law, best exemplified by the early modern legal formula "se obedece pero no se cumple" ("obey but do not comply") applied across New Granadian and other Spanish American courts.⁸⁷ Moreover, Juana del Concilio's case was the only lawsuit of its kind—that is, one protesting the separation of mother and Free Womb child—that appears to have been brought before the municipal court during the nearly 30 years of gradual emancipation, signaling the unusual nature of the case. The extraordinary nature of the suit, at least within the province, may have played a role in the judge's decision to side with the enslaved mother.

The judge may have also been influenced by the general practice of selling enslaved mothers and Free Womb children together that was the cultural norm in the Free Womb trade in Chocó. As discussed earlier, there were 78 sales of Free Womb children sold alongside their mothers, as opposed to eight sales of Free Womb children sold on their own from 1828 to 1851 in the available notarial records of Quibdó. Thus, this prevailing practice in the province may have influenced the judge's decision. The judge also had firsthand experience with the operations of the slave market and, most importantly, the Free Womb trade. In 1835, he had purchased an enslaved man named Nicolás who had run away from his master, and in 1837 he sold an enslaved woman named Dionicia.⁸⁸ In 1828, several years prior to hearing del Concilio's case, the judge purchased an enslaved woman named Josefa, in addition to her Free

86. ACC, 1835–1836, República JIV-6cr 3845, fol. 5v.

87. For more on this legal culture of interpretation in colonial and republican Colombia, see Mauricio García Villegas, "Apuntes sobre codificación y costumbre en la historia del derecho colombiano," *Precedente. Revista Jurídica* 2003: 103; Francisco R. Barbosa Delgado, *Justicia, rupturas y continuidades: el aparato judicial en el proceso de configuración del Estado-Nación en Colombia, 1821–1853* (Bogotá: Pontificia Universidad Javeriana, 2007), 209. Ángela Pérez-Villa found that officials in early republican Colombia, particularly in the mid 1820s, sought to limit what she calls a culture of legal "arbitrariness" in the Colombian court systems, through the formalization of new courts and administration of legal proceedings. See Pérez-Villa, "Disorderly Love: Illicit Friendships, Violence, and Law in a Slave Society at War, Popayán-Colombia, 1809–1830" (PhD diss.: University of Michigan, 2017), 152–157.

88. On Manuel Díaz's slaveholding, see NPQ, 1835: 206v-207r, 1837: 144v-145r, 162v-163r. Manuel Díaz also appears to have helped to facilitate the purchasing of freedom papers for an enslaved man named Agustín in 1833. See NPQ, 1833: 88r-v.

Womb daughter Rosana Navida, on behalf of a local priest.⁸⁹ This direct and potentially intimate experience with the slave and Free Womb trade may have played a role in affirming the judge's stance against local family separation, giving him firsthand familiarity with how the Free Womb trade functioned in practice.

It is also important to note that although administratively controlled by slaveholders, politically the capital of Quibdó was known as a relatively liberal center during the first half of the nineteenth century, especially in comparison to the conservative stronghold of Nóvita, Chocó's second most important town, just south of Quibdó.⁹⁰ Nineteenth-century liberals often embraced or at least expressed sympathy for abolitionist measures and causes across Colombia. Indeed, in the early-to-mid 1820s, Bogotá, the capital and seat of the new republic of Gran Colombia, became the de facto pro-abolitionist headquarters of Colombia. José Félix de Restrepo's speech in support of the 1821 law at the Congress of Cúcuta was published in Bogotá in 1822, and the government-sponsored *La Gaceta de Colombia*, along with other Bogotano newspapers, printed constant praises for the law throughout the 1820s.⁹¹ Enslaved people were emancipated by Bogotá's manumission juntas in theatrical public ceremonies featuring powerful republican leaders. For example, before an audience that included Vice President Francisco de Paula de Santander, Bogotá manumission junta officials in 1822 "placed on the head of each one of the *manumitidos* the cap of liberty in order to show that they were now truly free."⁹² Similar spectacular manumission ceremonies took place across the Antioqueño highlands and Colombian and Venezuelan Caribbean, where pro-abolitionist newspapers also circulated.⁹³ In contrast, no such comparable scenes could be found in Chocó, a province long associated with

89. NPQ, 1828: 40r.

90. During the colonial period, Nóvita was the official capital of Chocó. During the Wars of Independence, Quibdó was designated the capital of the province and remained so until 1842, when the liberals of Quibdó sided with the insurgents during the War of the Supremes (1839–42) and Nóvita was renamed the capital. In 1851, Quibdó was again renamed capital of the province after the Liberal Party won national elections. For more, see Sharp, *Slavery on the Spanish Frontier*, 14–16.

91. Restrepo, "Discurso sobre la manumisión de esclavos pronunciado en el soberano Congreso de Colombia reunido en la Villa del Rosario de Cúcuta en el año de 1821"; *Gazeta de Colombia*, no. 2, September 9, 1821; *La Gaceta de Colombia*, no. 64, January 5, 1823, no. 3, September 13, 1821, no. 12, October 14, 1821; *Correo de la Ciudad de Bogotá*, no. 158, August 1, 1822, no. 135, February 28, 1822.

92. *La Gaceta de Colombia*, no. 64, January 5, 1823. On the manumission juntas and public manumission ceremonies in early and mid nineteenth-century Colombia, see Jason McGraw, "Spectacles of Freedom: Public Manumissions, Political Rhetoric, and Citizen Mobilisation in Mid-Nineteenth-Century Colombia," *Slavery and Abolition* 32:2 (June 2011): 269–288; Dolcey Jaramillo Romero, "Manumisión, ritualidad y fiesta liberal en la provincia de Cartagena durante el siglo XIX," *Historia Crítica* 29 (January–June 2005): 125–147; and Fredy Enrique Martínez, "La fiesta de la Libertad. Celebraciones cívicas y manumisión de esclavos en la Gran Colombia," *Revista Colombiana de Educación* 59 (2010): 246–263.

93. *El Eco de Antioquia*, no. 5, June 2, 1822; *El Mundo Observador*, no. 3, July 12, 1826; *Correo del Orinoco*, no. 116, October 13, 1821.

gold-mining slavery, during the 1820s and 1830s; the province did not boast its own newspaper until the mid 1830s.⁹⁴

Yet, although the municipal judge certainly did not reside within a bulwark of liberal or abolitionist politics, he may have been one of many Quibdosomeño liberal authorities who supported or at least sympathized with the abolitionist sentiment of the 1821 gradual emancipation law. As evident in the short-lived Quibdó newspaper, *El Constitucional del Chocó*, there appears to have been support for parts of the 1821 law in the province, particularly the manumission juntas. For instance, in October 1835 an anonymous republican writer chastised Chocó's juntas for the lack of public manumissions, decrying: "Why is it that even though the [1821] law has existed for fourteen years, not more than one slave has been manumitted in the province of Chocó?"⁹⁵ Indeed, an article published in the national newspaper *Gaceta Oficial* in the early 1850s, after the Liberal Party took power and a final abolitionist movement began to sweep the nation, confirms Díaz's abolitionist sympathies. In April 1851, Díaz offered an enslaved man he possessed named Nicolás Cuesta to the manumission junta in Nóvita. Moved by the "spirit of the philanthropy of the century and the humanitarian ideas professed and practiced by the Government of the Republic," Díaz sought no compensation for Cuesta's freedom from the manumission junta.⁹⁶ Nevertheless, amid this regional political context of frustration over failure to implement the 1821 law in the 1830s, the municipal judge refused to execute the full terms of the Free Womb trade.

Unsurprisingly, an enraged José Nicolás Castro rejected the court's orders and appeared before the municipal judge the following day to protest the judge's decision. Whereas the judge failed to cite the law's geographical stipulations, Castro unsurprisingly fixated his claim on the legal geographies codified by Article 5 of the 1821 law. He focused on the law's legalization of the intraprovincial Free Womb trade, which he noted "only prohibits, explicitly and clearly, removing [Free Womb children] outside of the Province in which they are located." Because María Brigida was sold to a master in the same province, Castro argued, he was perfectly within his legal rights, "the natural meaning of this Article being entirely clear that these [Free Womb children] can be sold, even separated from their parents *as has been seen*, as long as one complies with the requirement of not removing them from the province."⁹⁷ Castro's casual

94. Based in Quibdó, *El Indígena Chocoano* was the first regional newspaper. Published in 1834, it was followed by *El Constitucional del Chocó* in 1835. Both papers folded within a year.

95. *El Constitucional del Chocó*, no. 6, October 10, 1835.

96. *Gaceta Oficial*, no. 1,226, May 21, 1851.

97. ACC, 1835–1836, República JIV-6cr 3845, fol. 7r; my emphasis.

reference to other cases of family separation—reflected in his words “as has been seen”—was an attempt to bolster his claim to the full letter of Article 5.

As stated earlier, while not the norm, the sale of Free Womb children without their mothers did occur in Chocó. In fact, notarial records reveal that on the same day Castro sold Juana del Concilio to her new owner, he also oversaw the individual sale of a different Free Womb child named Petrona, also possessed by the del Pino estate.⁹⁸ In other words, according to Castro, family separation was normal, legal, and uncontroversial within the geographical bounds of the province. Castro even requested the notary certify the home, residence, and neighborhood of Juana del Concilio and María Brigida’s new owners in order to prove that both mother and child were residing in the town of Nemotá, that is, within the boundaries of the province of Chocó.⁹⁹ Yet, the municipal court did not budge on its ruling.

Dissatisfied with the sentence, Castro appealed the municipal court’s decision to the Higher Court of Justice of Cauca in the southwestern capital of Popayán, which reviewed the case in late January 1836. Castro’s legal representative in Popayán followed the same line of argumentation by emphasizing the geographical conditions set forth in Article 5, which “favor the free will of property owners to transfer their things” within the bounds of the law.¹⁰⁰ Yet, much to Castro’s disappointment, Popayán officials were more focused on the legal technicalities of the suit rather than the apoderado’s argumentation. Technically, according to Popayán officials, the object of appeal was not explicitly Article 5 of the 1821 law, but the 50 patacones that the municipal judge ordered Castro to pay for María Brigida’s alimentos. As per Colombia’s law on civil proceedings, the higher court in Popayán could not rule on cases concerning small claims like that of Castro’s sentence. In fact, Popayán officials invited Castro to submit a new suit based on the potential violations of Article 5.¹⁰¹

Finally, in March 1836, the Higher Court of Popayán officially dismissed Castro’s appeal, on the grounds of failing to meet Colombia’s law on civil proceedings. Moreover, in spite of the municipal court of Quibdó’s breach of the 1821 law, Popayán officials argued that the original sentence was “in conformity with the principles of justice and equity and in the spirit of the law of manumission,” echoing a similar language of legal interpretation legislated by the Quibdó ruling.¹⁰² Moreover, while the slaveholding center of Popayán was home to

98. For the note of sale of the Free Womb child Petrona, see NPQ, 1835: 205v-206r.

99. ACC, 1835-1836, República JIV-6cr 3845, fols. 9-9v.

100. ACC, 1835-1836, República JIV-6cr 3845, fol. 12r.

101. ACC, 1835-1836, República JIV-6cr 3845, fol. 13r.

102. ACC, 1835-1836, República JIV-6cr 3845, fol. 13v. This general legal disposition to side with the “spirit of the law” reflected the particular legal culture of the court systems of colonial and early republican Colombia. Similar language can be found in a later case from Quibdó involving a free black mother’s legal quest to guarantee her child’s

powerful pro-slavery interests, anti-abolitionist opinions circulated in Popayán-based newspapers like *El Fósforo* and the pro-gradual emancipation law *El Republicano* as early as the 1820s.¹⁰³ It is quite possible that court officials in Popayán agreed or sympathized with these sentiments and actively supported the law's implementation.

What then became of Juana del Concilio and her young daughter? Presumably, mother and child were reunited, given that no new lawsuits were initiated. Perhaps after conversation with his client (and possibly community pressure), Castro decided to drop the case and unite María Brigida with her mother.¹⁰⁴ The case and final rulings demonstrate the limited power of the 1821 law and, consequently, the limits of its Free Womb trade. Although the intraprovincial Free Womb trade was technically legal, other factors and forces—such as an emotional appeal to motherhood, economic cultural norms, or interpretational respect for “the spirit of the law”—could trump the letter of the law.

MAKING AND UNMAKING THE FREE WOMB TRADE

In establishing the Free Womb trade, Articles 3 and 5 of the 1821 national gradual emancipation law introduced a new dimension into the republic's economy of slavery. The Free Womb captives were readily exchangeable market commodities that occupied an ambiguous space between chattel slavery and debt bondage. Yet, borrowing from Caitlin Rosenthal, a “form of market regulation” was built into the law, insofar as geographical and (relatively vague) age restrictions were imposed, leading to the legalization of an intraprovincial Free Womb trade and interprovincial, postpubescent Free Womb trade within Colombia.¹⁰⁵

Focusing on the former, this article explored the dynamic local trade in Free Womb children within the geographical confines of the province of Chocó,

Free Womb status in 1845. After a long and complicated case spanning several years, Popayán officials sided with the mother and cited, among other reasons, that “when there's doubt concerning a state of freedom or slavery of an individual, the judge should incline themselves in favor of freedom more so than slavery.” Similar to Juana del Concilio's case, the judge's antislavery “inclination” was cited as legitimate reason for rulings involving enslaved people. For more on this case, see ACC, 1845, República JIII 8em 4026, fol. 103v.

103. *La Gaceta de Colombia*, no. 169, January 9, 1825. The aristocratic Mosquera clan, who published powerful anti-abolitionist tracts throughout the 1820s, was most eminent among the anti-abolitionist families in Popayán. For more on the Mosqueras, see William Lofstrom, *La vida íntima de Tomás Cipriano de Mosquera, 1798–1830* (Bogotá: Banco de la República; El Áncora Editores, 1996); and Luis Ervin Prado-Arellano and David Fernández Prado Valencia, “La familia Mosquera y Arboleda y el proyecto bolivariano (1821–1830),” *Memoria y Sociedad* 14:29 (2010): 55–69.

104. Community pressure appears to have factored into the outcome of other legal cases involving Free Womb children in the Pacific lowlands. For a case from the early 1840s, see Yesenia Barragan's article, “Slavery, Free Black Women, and the Politics of Place in Chocó, Colombia,” *Revista de Estudios Colombianos* 47 (January–June 2016): 61–63.

105. Caitlin Rosenthal uses this notion to reframe how scholars should understand the final abolition of slavery. See Rosenthal, *Accounting for Slavery*, 79.

revealing the powerful local markets their circulation engendered. Typically trafficked with their enslaved mothers (and occasionally on their own) in Chocó, Free Womb children served as valued commercial appendages with the economic potential of appreciation. Yet, as the final section of this article revealed, the cultural practice against family separation in Chocó may have played a crucial role in influencing one municipal judge's decision to return the Free Womb child María Brigida to her enslaved mother Juana del Concilio, thereby rejecting the full legal terms of the Free Womb trade.

Arguably, the Free Womb trade revitalized the new republic's devastated economic terrain in the years after the Wars of Independence by offering—as the Free Womb generation aged—especially cheap pools of unfree and exploitable labor, especially at the local, provincial level. As one slaveholder in Chocó in the 1840s recounted, “A seven-year-old slave would cost 150-200 pesos. . . . Who doesn't know that a manumitido of such an age could only be sold for 60 pesos?”¹⁰⁶ Slaveholders' opportunities for acquisition of Free Womb captives expanded throughout the country after the extension of Free Womb bondage from 18 to 25 years of age in 1842, in the wake of Colombia's first civil war.¹⁰⁷

A product of Colombia's slave system, one would expect that the Free Womb law would have been abolished along with the final abolition of slavery in January 1852. Some Free Womb children, however, continued under the tutelage of their mothers' former masters after final abolition, with various officials arguing that the final abolition law did not affect Free Womb children. Declaring that there was “no particular order in the law of May 21 of last year” concerning Free Womb children, the governor of Popayán instructed that several children be returned to their mothers' masters.¹⁰⁸ The Free Womb children thus remained in a juridical limbo that lasted until April 1852, when Congress approved the “Additional Law of Manumission and Freedom of Slaves” after receiving complaints. This new law's first article stated unequivocally that the “children of slaves born free. . . have been exonerated from January 1 to the present year of all obligations of service or special *concierto* that previous laws of the Republic imposed on them.”¹⁰⁹

106. ACC, 1845, República JIII 8em 4026, fol. 71r.

107. Slaveholders' opportunities expanded outside the country's borders as well, after the adoption of a new law in 1843. This 1843 law repealed the 1821 law's prohibition of the international slave trade and authorized the international trade of Free Womb children, so long as they were not exported “against their parents' will” and their bills of sale stipulated their Free Womb status. For more, see Carlos Restrepo Canal, ed., *La libertad de los esclavos o leyes de manumisión*, Tomo II (Bogotá: Imprenta Nacional, 1938), 3–16, 25–26; John W. Kitchens, “The New Granadan-Peruvian Slave Trade,” *Journal of Negro History* 64:3 (Summer 1979): 205–214; and Marcela Echeverri, “Esclavitud y tráfico de esclavos en el Pacífico suramericano durante la era de la abolición,” *Historia Mexicana* 69:2 (2019): 627–691.

108. Castellanos, *La abolición de la esclavitud en Popayán*, 82.

109. *Gaceta de la Nueva Granada*, no. 1349, April 24, 1852.

Only then, in April 1852, was the Free Womb generation legally emancipated and, consequently, the Free Womb trade abolished. After 1852, former slaveholders and anxious authorities in Chocó were forced to confront a new terrain of free black market geographies. Supported by a strong historic tradition of independent gold prospecting and subsistence production, black inhabitants of Chocó and the greater Pacific lowlands expanded their moral economies of rubber collection and forest products, an expansion that would profoundly trouble the local ruling classes well into the late nineteenth century.¹¹⁰ No doubt, the market geographies of the past—of slavery and the Free Womb trade—would continue to haunt former masters and captives alike, albeit in radically different ways.

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110. On these post-emancipation economies in the Colombian Pacific lowlands, see Claudia Leal, *Landscapes of Freedom: Building a Postemancipation Society in the Rainforests of Western Colombia* (Tucson: University of Arizona Press, 2018).