

## Popayán: Prudent Legislation

As early as 1791, the lawyer Félix José de Restrepo showed particular judicial diligence on behalf of individual slaves suing for their freedom. He strongly adhered to the principle that freedom suits should be resolved in *favor libertatis* – in favor of the slaves’ petition of liberty. In 1804, Restrepo asserted that slaves deserved judicial compassion, reiterating that magistrates should promote freedom over slavery. Instead of blindly siding with the masters, Restrepo argued, judges should presume that those claimed as slaves were free. Masters, in turn, had to firmly prove their claims to property over fellow human beings.<sup>1</sup> During litigation, Restrepo defied the widespread notion that slaves’ words and intentions were not to be trusted, and that they should keep to their natural social station.

Radically expanding on the principle that individual magistrates should favor freedom, Restrepo further asserted that the government ought to facilitate slave emancipation. Allowing slaves ample room to achieve manumission by legal means was the trademark of any “sweet, prudent, and moderate legislation.”<sup>2</sup> Restrepo aired these opinions in Popayán, of all places, where the livelihood of most people of his standing hinged on the enterprise of slavery. Moreover, he expressed these legislation opinions in a society in which the king alone could decide on the scope and nature of the laws. In the judicial forum, Restrepo was subtly stepping into a realm reserved for the sovereign and his closest ministers.

Doctrines and practices of modern philosophy and the unorthodox idea of legal equality underpinned Restrepo's propositions. An unusual college education facilitated his critical approach to old doctrines, as did his admiration for Gaetano Filangieri, whose recent work had proposed a new philosophy of legislation. For Filangieri, legal reform was the avenue to an egalitarian and just world, a world in which slavery had no place. As a college professor, Restrepo taught his pupils that long-standing intellectual authorities and convictions must be challenged; and as a lawyer, he proposed innovative interpretations of slavery and freedom, stating that it was proper to promote not only slave emancipation but also equal protection by the law.<sup>3</sup> His assertions were at odds with the widespread convictions that any challenge to authority, hierarchy, and slavery undermined the sacred social order.

By engaging in individual litigation, people of color undermined prevalent prejudice and stimulated legal thought. Judicial quests by slaves seeking freedom and former slaves pressing for new rights shaped Restrepo's legal outlook. Throughout his stints as appointed legal adviser, litigants pushed Restrepo to ponder captivity, inherited privilege, and whether magistrates should favor humble petitioners over rich families. In effect, these litigants tested whether the lawyer's evolving convictions would have any real effect for those with the least legal standing. The former slave Pedro Antonio Ibargüen is a case in point. Ibargüen received Restrepo's advice during the early stages of a lawsuit against a well-connected Popayán clan. Ibargüen went on to defend equality before the law with tenacity, asserting that all vassals of the king, rich and poor alike, deserved the same protection from the magistrates.<sup>4</sup>

Quietly at first, Restrepo, Ibargüen and many others argued that it was the obligation of the "State" to change the legal order, fostering happiness and justice on earth, even for slaves and their free descendants. As they took on their social betters through judicial confrontation, some humble litigants criticized the political grammar of the viceroyalty. More discreetly, in tertulias and over correspondence – robust but little-known spaces of political dialogue – even criticism by patricians must have been increasingly sharp. Secretly, after 1793 some people even questioned the authority of Spain to rule over the New Kingdom.<sup>5</sup>

The Spanish monarchy's authority over the viceroyalty became the subject of more open and urgent discussion following Napoleon Bonaparte's invasion of Spain in 1808. These European events were unprecedented, as were the answers that came from across the Atlantic, resulting in an acute political crisis that shattered the viceroyalty in 1810. Provinces, cities, towns, and even hamlets pulled away from the authority of Santa Fe and refused to obey officials from the occupied metropole. These emerging revolutions opened the door to a more radical questioning of slavery and of the hierarchical links binding up the body politic. Opinions previously exchanged in the judicial forum were projected onto the political crisis. Some patricians quickly came forward with fully formed criticisms of the Kingdom's "pact" with Spain and, using their preferred metaphor to discuss the links with the metropole, they reasoned that the yoke of Spanish "slavery" had to be fully dissolved.<sup>6</sup> Jurists, litigants and many others pondered fundamental questions of state, government, and the law in light of the new crisis.

Enslaved communities also discussed and communicated their own opinions about the place of slavery and emancipation in the growing political wrangle. Across the governorate of Popayán, many of the enslaved discussed what the changing situation and their masters' political choices could potentially mean for those who hoped to be free. In the Pacific mining districts, the San Juan mine slaves took advantage of the crisis, refusing to obey their masters altogether. Some slaves interrogated metaphoric understandings of slavery by calling attention to their actual status in captivity. Their freedom, they asserted, was a necessary extension of the freedom demanded by the masters who were now claiming to be enslaved by Spain. In the governorate's capital, meanwhile, Restrepo had begun to discuss a formal plan for the "abolition" of slavery through legislation. He openly sought to extend the logic of *favor libertatis* to all slaves, though only through a gradual approach.<sup>7</sup>

Restrepo reasoned that prudent lawgivers and magistrates, under a new form of government, were obligated to transform society by ending slavery. But even for this forward-looking early antislavery legislator, it proved hard to let go of the old prejudices. In the end, the plan was to reform slavery while postponing its actual end, thus preventing the alleged chaos that would be caused by liberated slaves.

In short, Restrepo and other thinkers with antislavery inclinations still believed that slaves would seek to turn the world upside down at the first opportunity. This ambivalence in approach often came from those in uncertain social positions: individuals with an increasingly revolutionary outlook but with strong ties with the old order.

### Friend and Foe

Although he is usually commemorated as the liberator of slaves, Félix José de Restrepo was nonetheless deeply entangled with Popayán's slave economy. Starting with the sale of his slave José Antonio in January 1789 and traceable in surviving notarial records up to 1801, his involvement in the city of Popayán's slave market, the largest of its kind in the New Kingdom, is not insignificant.<sup>8</sup> In Popayán that year 161 slaves were exchanged; the figure had reached 264 the year before; and in 1801, 113 slave sales would be recorded. Restrepo himself bought at least twelve slaves, but he also bought human beings on behalf of other masters, most likely charging a fee for his services.<sup>9</sup> Before 1810, Restrepo seems to have granted manumission only once (to his slave Leonarda), and this only after receiving 250 pesos in payment.<sup>10</sup> From the vantage point of most captives, Restrepo must have hardly seemed a friend of freedom.

Nevertheless, Restrepo's rank among slaveholders was unexceptional; overall, he was a patrician of modest means. Compare, for instance, the 300 pesos he spent to purchase twenty-year-old Dionisio in 1793 with the 35,100 pesos invested by a Barbacoas master on a group of 135 slaves that same year.<sup>11</sup> Restrepo owned no haciendas or gold mines, and his deal to purchase a house on credit fell through. In 1807, Restrepo, his wife, their five children, and their three household slaves lived under the roof of his brother-in-law.<sup>12</sup>

Restrepo also took part in the enterprises of slavery in a more oblique way. He helped his in-laws, the Sarasti brothers, obtain public posts in the Pacific mining districts, profiting a little from taxes and bribes collected from the wealth created by slaves. Restrepo's in-laws had followed in the footsteps of their father, the lieutenant governor of Barbacoas back in the 1760s. Francisco Sarasti, as *oficial real*, oversaw tax collection from the owners of gold mines in Barbacoas. In 1790, Restrepo provided Francisco with 500 pesos to cover the fees required

to take up the post. It is likely that Francisco used his office income to pay Restrepo back with some interest.<sup>13</sup> José Joaquín Sarasti, the lieutenant governor of Icuandé, requested 100 pesos from Restrepo in 1792. He used the money to pay for the post of *alcabalas* administrator for the districts of Icuandé and Micay, and he was now in charge of collecting sales taxes.<sup>14</sup> That same year, yet a third brother-in-law, Agustín Sarasti, became *alcabalas* administrator for the district of Raposo. Agustín obtained Restrepo's formal backing as guarantor.<sup>15</sup>

However, this family's entanglement with the gold economy depended more on political influence than on slaveholding. Always much too uncertain, appointments depended on connections. Moreover, the posts did not always guarantee a stable income, let alone an increase in riches. Restrepo continued to participate in these bureaucratic arrangements, but his apparent wish to rise in the ranks of the local magnates failed to materialize. He tried to build his fortune by shipping goods for retail in Antioquia, to no avail. He also tried reselling slaves and jewelry, both in Antioquia and Cartagena, but he did so by proxy, which was rarely the safest way to turn a small investment into a fortune.<sup>16</sup> Bound up with the world of the slaveholders and profiting from slave labor, Restrepo nevertheless did not, or could not, develop a livelihood based mainly on the ownership of other human beings. In the parlance of the time, he was neither a *minero* (master of gold mining slave gangs) nor an *hacendado* (owner of a rural estate). He had to rely on a myriad of enterprises for his income and position; teaching at a local college was his main occupation, but he also practiced the law and held municipal posts.

His legal occupations further contributed to Restrepo's ambivalent social position and linked him with slavery in yet another way. Though he worked as a lawyer for well-off families, he was occasionally appointed to represent poor people before local magistrates. He thus came into conversation with plebeians seeking justice. These included people in bondage or individuals claimed as slaves. A slaveholder advocating on behalf of slaves may sound paradoxical, but we must recall that slaves, on occasion, relied on certain jurists to litigate their cases. On these rare occasions, some slaves may have seen Restrepo as an ally. Initiated by people seeking emancipation for themselves or their loved ones, such cases were often based on conceptual understandings of slavery and freedom.<sup>17</sup>

Restrepo officiously supported some people who managed to bring their struggles for freedom before the justice tribunals. As a relatively small slaveholder, he may have found it somewhat more practicable to point out the inequities of slavery. In 1791, he helped the slave Alejandro de la Rosa, who had recently obtained *papel* from his master, a document that allowed slaves to look for a new potential owner. *Papel* was granted to slaves who convinced officials that their current master had abused his or her authority, but de la Rosa's master later accused him of running away. There was more to the case, for de la Rosa had also paid the master over 100 pesos toward his freedom. With Restrepo's legal advice, de la Rosa was able to hold his master to their agreement and secure manumission.<sup>18</sup>

Slaves' freedom suits forced Restrepo to grapple with the meanings of freedom and the ambiguities of its legal underpinnings. In 1804 he defended Clara, born to slave parents and now twenty years old. Although her parents had paid for her freedom when she was baptized, their master attempted to claim her as property. Clara provided Restrepo with evidence of the payment. Although this payment mattered, Restrepo argued that Clara was legally free mainly because she had enjoyed freedom most of her life. It made no difference that her parents' master had not consented to the payment in the first place, as they claimed. Following the principle of *prescripción*, the lawyer recalled, slaves could obtain their freedom by "lapse of time." After going about "undisturbed" for ten years in the country of their masters, or after enjoying freedom for twenty years elsewhere, slaves could turn their informal freedom into legal emancipation. The *Siete Partidas*, a Castilian thirteenth-century legal code and an important Spanish source of jurisprudence, stipulated *prescripción*. Restrepo knew the code well and cited it in his written opinions. He also knew that existing legal notions suggested that slavery should not necessarily be regarded as an everlasting status.<sup>19</sup>

The idea that slavery was not a natural state or a fixed status but rather an undesirable, temporary condition emanating from an act of force can be detected in the ambiguous legal vocabulary of enslavement and emancipation. The *Siete Partidas* recognized slaves as human beings in a wretched condition, with slavery described as the most "vile" and "contemptible" thing.<sup>20</sup> The formulae used in notarial records to formalize the sales, purchases, and manumissions of slaves

also conveyed that slaves were slaves only through the force of the masters. The expressions natural freedom (*libertad natural*), subject to servitude (*sujeta a servidumbre*), freedom from servitude (*libertad de servidumbre*), under the condition of slave (*bajo la condición de esclavo*), rescue (*rescate*), and redemption (*redención*) suggested that slavery existed only when some people forced captivity on others, and that people could slip in and out of a state of slavery over the course of their lifetime.<sup>21</sup>

Restrepo insisted that the balance of justice should always tip in favor of the slaves. Before handing Clara's case to another lawyer (because of a trip out of town), Restrepo stated that in the "cause of freedom" the law did not require particularly solid evidence to support arguments advanced by slaves and their attorneys. The burden of proof lay with the putative masters, who were obliged to substantiate the captivity status of those they claimed as slaves. Judges, Restrepo further suggested, should find avenues to facilitate the restitution of people to their "natural dignity" (*dignidad natural*).<sup>22</sup> Even when born from enslaved mothers, people were not naturally born into slavery but rather subjected to it by others.

His use of the word *dignidad* suggests Restrepo had begun to think critically about slave emancipation, drawing on sources beyond the Castilian legal canon and language. Traditionally, *dignidad* referred to the honor and standing of people in positions of authority, especially ecclesiastical "dignitaries." In unequal societies, people received deference and respect in proportion to their standing. Meant only to serve and work, slaves thus commanded little to no respect. Natural *dignidad*, therefore, presupposed a universal standing for all individuals, with all men and women presumably deserving a baseline or modicum of respect. Often seen as naturally deserving of the harshest judicial treatment, slaves now appeared in Restrepo's arguments as common folk who deserved some basic considerations, and even a measure of special treatment, from the magistrates.<sup>23</sup>

First expressed in Popayán, Restrepo's somewhat innovative legal propositions drew on sources and perspectives from his college years in Santa Fe. Born in Antioquia in 1760, he was homeschooled in "first letters," "arithmetic," and Latin "grammar." On arrival in Santa Fe to request admission at the Colegio de San Bartolomé in 1773, Restrepo was found "superabundant" in Latin; he mastered

the Latin canon, developing a special love for Virgil and Cicero.<sup>24</sup> But it was his serendipitous arrival in 1773 Santa Fe that laid the foundation of Restrepo's critical thinking. He joined the only cohort of students officially exposed to modern philosophy during the Spanish period. At this time, instructors and students were encouraged to privilege experimentation, direct observation, and debate over obedience to traditionally accepted authorities and texts. This modern philosophy approach (as opposed to syllogistic and scholastic education) was rolled back in 1779, but Restrepo became *bachiller* in 1776 and *licenciado* in 1778. Alongside many of his cohorts, he believed that modern scholarly knowledge and practical intellectual endeavors should lead to prosperity, happiness, and justice on earth.<sup>25</sup>

Restrepo was appointed professor of philosophy at Popayán's Colegio Seminario de San Francisco de Asís in 1782. He settled, married into a local family, and soon garnered admiration and respect for his pedagogical efforts. Happily for Restrepo, some Popayán elders, including the bishop, supported modern philosophy. At the public opening of the new school cycle in 1791, Restrepo defended the study of mathematics, geometry, geography, and botany. Such practices did not oppose revelation, nor did they endanger salvation, he insisted, rather it was scholasticism that should be rejected, and "reason, not authority, shall have the right to settle our disputes." This critical and utilitarian approach, he told his audience, would lead to a "fountain of happiness."<sup>26</sup>

Modern philosophy encouraged a more general questioning of hierarchy and tradition. Challenging scholastics and inherited wisdom stimulated a critical attitude toward social and political matters. This attitude caused trouble for young pupils involved in the 1794 Santa Fe pasquinades affair. Some, like Camilo Torres, had begun their careers with Restrepo in Popayán. They complied with the scholastic approach but in secret they mocked those teachings, criticized the rollback of educational reform, and continued to steep themselves in modern philosophy through tertulias and private classes.<sup>27</sup> Led by a local notable, Mariano Lemos Hurtado, a vibrant tertulia formed around 1800 in the city of Popayán. Restrepo was a prominent member of this circle.<sup>28</sup> Looking for tools to dissect their society, this intelligentsia re-read the Latin classics, discussed contemporary publicists (such as the Neapolitan Filangieri and others who wrote on *derecho público*), and debated seventeenth-century political theory.



Indeed, in his writings about the “natural dignity” of slaves, Restrepo may have been drawing on the seventeenth-century thinker Samuel von Pufendorf, who wrote extensively about human dignity and human equality. Widely read by lawyers trained during Restrepo’s college years and vehemently condemned by the Capuchin friar Finestrada, Pufendorf himself drew on the Roman statesman Cicero and his notion of *dignitas*. With this word, Cicero was indicating the worthiness of men holding civic office – a meaning that would have been familiar to an eighteenth-century Spanish speaker – but he was also highlighting the standing of humankind, who, unlike animals, exercised their reason and learning. Even Roman patricians, Cicero wrote, had to be just to their slaves. Pufendorf, in turn, argued that slaves should not be treated like animals or objects.<sup>29</sup>

In Restrepo’s estimation, theoretical knowledge of this link between freedom from slavery and human dignity would ideally lead to legislative action. Like Filangieri (who rejected slavery as a crime supported by illegitimate laws), Restrepo thought of legal reform as the necessary avenue to a better society. In 1804, he wrote that facilitating freedom was part of a “sweet, prudent, and moderate legislation.”<sup>30</sup> Though obliquely suggested, this idea of a prudent legislator making laws to benefit the slaves and thus uphold their human dignity had grave implications. Restrepo’s turn of phrase seemed to question the king’s own prudence – his virtue and ability to distinguish between good and evil. A thorny thought indeed, for it was the sovereign alone who had the prerogative to legislate and was considered “supreme judge.”<sup>31</sup>

His ideas on human dignity and the law, moreover, reveal Restrepo’s unorthodox conviction that the Spanish government had a duty to offer equal protection to all vassals. Restrepo first endorsed legal equality while representing the former slave Pedro Antonio Ibargüen, who would later further elaborate on equal protection under the law. For Restrepo and Ibargüen, equality was more than an abstract principle, it was a matter of politics, and therefore it was achievable through litigation and legislation. Ibargüen was also entangled in the slaveholding economy of Popayán. Though his social position was no less ambiguous than Restrepo’s, his ideas had a radical bent that elicited pushback.

### The King's Slave

Ibargüen was probably born in the Chocó, in the northernmost Pacific mining districts (see Map 1). Achieving freedom in this land of back breaking work and cruel overseers was no easy task. In the Chocó, Humboldt wrote, "slaves are treated like beasts."<sup>32</sup> But Ibargüen obtained his emancipation, and then moved south in the 1780s. He started out as a gold prospector in the district of Iscuandé, and by the late 1790s, he had accumulated some money, bought slaves of his own, and hired some free workers to pan for gold. Ibargüen's success eventually allowed for luxuries, including Spanish and French garments, some china, glasses, a rosary, and a reliquary.<sup>33</sup>

The relative success of this former slave gained him some enemies. In 1791, two years after setting up a mine on a stream named Pique (see Map 3), the Castro and Grueso families, two slave-owning clans from Popayán with interests in the area, challenged Ibargüen's activities. According to Ibargüen, the Grueso family ordered their slaves to destroy his house. In what would be the first of a long series of travels and judicial undertakings to gain legal redress and defend his claim to status as a free vassal, Ibargüen left for Popayán. There, after most attorneys in town refused to represent him, he asked authorities to appoint a legal adviser for his case. Thus, Ibargüen and Restrepo crossed paths for the first time in April 1791.<sup>34</sup>

With Restrepo's help, Ibargüen presented a petition before the authorities. Although such petitions often appear to be authored by the petitioner alone, they emerged from a dialogue between legal advisers and claimants. In a detail that reveals his careful participation in the drafting of the petition, Ibargüen signed the document by his own hand. Restrepo also signed the document, which demanded compensation for damages and lost income; moreover, they requested formal legal possession of Ibargüen's Pique mine. Most significantly, the language of the petition transcended the specifics of the case, arguing that it was the government's duty to provide all vassals with the same protection.<sup>35</sup>

Restrepo and Ibargüen's proposition of equality defied the notion that property and usufruct were allotted according to rank, and that they were corporate privileges and prerogatives rather than rights.

Restrepo and Ibargüen argued that the “privileges” of some caused prejudice for others. Specifically, they questioned the restrictive nature of the rank of *minero* (gold mine owner). Drawing a distinction between *minero* (a person formally authorized to mine) and a *real de minas* (a royally authorized mining enclave), the duo argued that access to the latter should not be an “exclusive privilege” of a few. Since the land belonged to the king, restricting its fruits to specific families or corporations would be detrimental to “all other vassals,” who were “equally entitled to the protection of the government.” Equal enjoyment of the sovereign’s grace and the protection of his ministers, moreover, was the foundation of what the petition called the “security of the State.” Therefore, a specific threat to Ibargüen in the form of the Grueso family’s aim to monopolize the Pique gold sources also exemplified a general menace to an imagined political order – a polity in which authorities had the duty to protect all vassals equally as a matter of State.<sup>36</sup>

Both Restrepo and Ibargüen knew perfectly well that justice was distributed on an unequal basis, with the verdicts of the tribunals usually pivoting on familial and corporate privileges and influence. Indeed, another lawyer, citing his connection with the Gruesos, had denied his services to Ibargüen, and in fact Restrepo also recused himself from the case, in deference to his in-laws who were also allies of the Gruesos. Although Ibargüen eventually found magistrates to advise him and managed to obtain favorable rulings, Manuel José Grueso prevented Ibargüen from returning to his mining activities. José Joaquín Sarasti, the lieutenant governor of Iscuandé and Restrepo’s brother-in-law, actively supported Grueso.<sup>37</sup> In December 1792, Ibargüen filed a new petition. He denounced Grueso for bribing Sarasti, also claiming that the powerful Arroyo family had advised Sarasti not to favor him, for it was not appropriate “for a black to have his own way.”<sup>38</sup>

Besides his pointed criticizing of privilege and monopoly, Ibargüen also attacked the elite families’ prejudice against former slaves and commoners. His case, Ibargüen insisted, was an instance of the ongoing struggle between rich and poor, highlighting how patricians disobeyed the magistrates and acted against the king’s wishes. In the mining districts, the rich disobeyed the governor’s orders and constantly “punished” the poor, even though humble people behaved as

“faithful vassals.” The poor, who always abided by royal decrees and never claimed the immunities demanded by “gentlemen,” thus also deserved the protection of the magistrates.<sup>39</sup> Early and consistently, Ibargüen cast his cause as a transcendental legal issue over authority and privilege, intersecting with and radicalizing the intellectual pre-occupations of jurists like Restrepo.

The former slave’s legal propositions also shared some features with the legal imagination of slave communities in Antioquia and Cartagena. Ibargüen saw former slaves’ incorporation into the Spanish municipal regime as the ideal avenue to equal protection by the law. Like slaves in La Honda or Antioquia, who aspired to form sub-municipal societies living *en policía* after emancipation, Ibargüen also believed that former slaves deserved political belonging: the privilege to hold landed property, thus settling down and living in or near towns ruled by spiritual and temporal authorities. Ibargüen argued that monopoly of the land by the “gentlemen” clearly prevented these rightful aspirations. Even the slaves of powerful gentlemen wrongly called themselves “landowners,” while he, an exemplary vassal and a “slave” of the king of Castile, was denied access to his property in Pique. Ibargüen also announced that, if necessary, he would “make a pilgrimage” to Madrid to seek justice before the king.<sup>40</sup>

Although he never did cross the Atlantic, from 1793 to 1810 Ibargüen traveled throughout the Pacific mining districts, made several trips to Popayán, appealed before the Real Audiencia in Quito, and roamed the region looking for Governor Diego Antonio Nieto to make his appeal in person. Despite these efforts, Ibargüen was never able to recover the value of his lost property or to regain access to Pique.<sup>41</sup> But he never held back from appealing to the magistrates and speaking his mind in the judicial forum, broadcasting his political ideas through intense litigation. Unlike most slaves and groups of slaves seeking emancipation or protection from the authorities, Ibargüen was already free, and he was literate. He owned several notebooks, pious texts, and a pair of spectacles, none of which had been obtained through inheritance.<sup>42</sup>

Throughout his endeavors to regain the property he had bought and earned, Ibargüen revisited the theme of inherited privilege again and again. While many powerful individuals accumulated land for no reason other than to keep it for their children, Ibargüen declared poignantly, “I ask for land for my own subsistence.” While mineros

and hacendados were afforded the protection of the tribunals, a poor person with no connections or established riches received no protection at all. Ibargüen argued forcefully against this injustice. Since rich and poor alike were “equal vassals of His Majesty,”<sup>43</sup> a lack of riches and hereditary privileges should not prevent access to the grace of justice from the king. In short, fidelity to the sovereign should equalize vassals before authorities. Ibargüen’s propositions and aspirations caused a stir, and he was imprisoned in 1797. He wrote a new petition. He opened the document with the words “Pedro Antonio Ibargüen, Étiope libre.”<sup>44</sup>

The words “free Ethiopian” reveal much about Ibargüen’s views on the political standing of former slaves and show that he understood he was fighting to be treated as a free vassal. Masters often treated ex-slaves harshly, and free folk usually referred to them as *negros libertinos*. Tellingly, Patricio Grueso de Agreda threatened Ibargüen with 200 lashes, thus treating him as a slave, and ordered him to keep silent, since, as a “negro,” Ibargüen should endure any aggravation and “not speak in his presence or the presence of gentlemen.”<sup>45</sup> “Negro” was often used as a synonym for slave. Ethiopian, however, conveyed not just African enslaved ancestry but the dignity of a Christian background. Many so-called Ethiopians, including Queen Candice (or Candanga) and Saint Benedict of Palermo (a freed slave), formed illustrious characters in the histories of salvation and the church.<sup>46</sup> Although not a resident with privileges and obligations in a formally constituted Spanish municipality, Ibargüen nonetheless claimed status as a vassal, one whose ancestry revealed a faithful Christian genealogy rather than the stigma of slavery alone.

Unsurprisingly, his enemies resorted to old canards about slaves and former slaves to silence and subdue him. Early in 1798, the slaveholder José Ignacio de Castro assured authorities in Popayán that “freed people” lived in a state of near “mutiny” and sought to overthrow established authorities.<sup>47</sup> Captives in the mining districts made efforts to end slavery for themselves or their kin, and many individuals insisted that this set a bad example and could lead to the breakdown of gold production. Governor Nieto and patricians from Popayán and Barbacoas petitioned royal authorities to forbid slaves from attempting to obtain their freedom legally without consent from their masters.<sup>48</sup> Ibargüen’s legal tactics and his relative success after slavery,

especially his becoming a master himself, did not fit the stereotype of mutinous commoners. Nevertheless, in the eyes of his enemies he was living proof that former slaves could not be trusted to know their place.

According to his enemies, Ibargüen's influence over other freed people also threatened the natural order of society and the stability of the monarchy. Ibargüen relied on the labor of his slaves, but he also hired former slaves and possibly runaways who formed a semi-autonomous community near Pique. In 1798, Agustín Sarasti, Iscuandé's new lieutenant governor, told Nieto that these people, who communicated with slave gangs elsewhere, would spark a "general uprising." Officials asserted that Ibargüen was the "head of the mutiny," and that force alone could stop this mobilization. Referring to Ibargüen and his neighbors as members of a *palenque*, a term for maroon settlements, slaveholders and officials inaccurately regarded this settlement as a community formed entirely by escaped slaves. Local priest José Varona also denounced Ibargüen and the freed people as rebels, and in 1800, José Ignacio de Castro would insist again that this settlement stimulated the mixing of free and enslaved. The situation was also seen as a threat because "enemies" on the Pacific Ocean, presumably the British, could persuade disorderly people to join their cause and attack Spanish forces.<sup>49</sup>

Under such unrelenting attack, Ibargüen ultimately relied on an illegal maneuver, but it was hardly the violent action his opponents anticipated. Beating a tactical retreat, in May 1798 he fled to Quito after learning that Castro had convinced the governor to throw him in jail once again. In Quito, however, Ibargüen reverted to legal tactics, filing a complaint against Sarasti for drunkenness while performing his duties as a magistrate. Ibargüen thus found himself facing Restrepo during litigation. The Popayán patricians rarely shied away from a legal battle, and on behalf of his kinsman and to fend off the accusation of drunkenness, Restrepo accused Ibargüen of defamation the following year.<sup>50</sup> Within a decade, however, these matters would be set aside to face much broader challenges.

The near-destruction of the Spanish Bourbons at the hands of Napoleon Bonaparte and his allies, beginning with the French invasion of the Iberian Peninsula in 1808, would have enormous repercussions in the New Kingdom. When the storm gathered full pace in 1810, the

old tensions that typically found expression in the judicial forum would merge with the new conflict, promising to change the very terms and scope of political reflection on the meanings of slavery and freedom. Restrepo and Iburgüen would cross paths again many years later, but in a world changed by revolution and war. By the time Iburgüen resurfaced again, an upheaval so dramatic had taken place that it was no longer appropriate to appeal to monarchs for justice, and some considered ending slavery a goal of State and government.

### The Revolution of Popayán

The French occupation of the Iberian Peninsula elicited strong condemnation throughout the Spanish world. Following the Emperor of the French's imprisonment of Spain's Ferdinand VII and the installation of his own brother as the new king, a war of liberation began in Spain. In the New Kingdom, cabildos openly rejected the intruding dynasty.<sup>51</sup> Still, the delicate situation in Spain created uncertainty about the standing and future of the Spanish monarchy. The absence of the sovereign threw into question the legitimacy of the viceroys, *oidores*, and governors – high officials who directly represented the deposed king. Except for events in Quito, where patricians deposed high authorities but were quickly repressed in 1809, a tense calm set in throughout the viceroyalty.

The situation changed dramatically by mid-1810. News arrived that French forces had gained the upper hand in the Spanish conflict, with an improvised and seemingly illegitimate Regency Council now as acting sovereign. Although it was impossible to tell the extent to which the Regency could command respect and bestow authority, governors and high magistrates hastened to swear allegiance to this new governing body. Spanish bureaucrats and military officers feared that locals would take advantage of the Regency's weakness and ambivalent standing to push for increased autonomy or even independence. Many criollos had been eager for reforms, seeking to expand free trade policies, obtain greater access to royal posts, and to update college education. There were families who still resented officials' harsh response to the pasquinades affair, claiming they were treated like "slaves."<sup>52</sup>

Some criollos now actively concluded that the disappearance of the legitimate dynasty in Spain already implied the independence of all

overseas territories. Camilo Torres argued that the collapse of the Spanish monarchy had set the people of the New Kingdom free to choose their own form of government. “What should we do,” asked Torres in a letter to a relative, “what measures should we take to sustain our independence and liberty?” With the monarchy “dissolved,” the “sovereignty” had reverted to the “nation,” Torres asserted, and the “nation” was now at liberty to reject rule by distant authorities. Many people agreed. So long as it led to “happiness,” a transformation of the form of government was legitimate, and for many, radical political change now seemed feasible and not sinful. If the slaves of Saint-Domingue, upon recovering their liberty, could form an independent country, freely choosing their own political system, Spanish America and all other peoples might surely also enjoy the same “essential and imprescriptible right.”<sup>53</sup> Torres’s reference to the former slaves of Saint-Domingue, who had defeated the French and obtained independence six years earlier, was especially significant, if clearly ambivalent.

Increasingly vocal about their aspirations for independence, Torres and other patricians characterized Spain as a cruel mistress who had for centuries subjected the New Kingdom’s vassals to the most “horrible” form of slavery. Accustomed to treating the people “like vile slaves,” the old Spanish “chiefs” are not good enough “to govern free men,” reasoned Torres. Newly acquired freedom from Spain thus meant that “the chain has been broken,” and the inheritance of a “shameful slavery” erased. The way forward, Torres further asserted, was for the *cabildos* to form *juntas*, taking on the task of local and provincial government. Later, *juntas* should install a congress in Santa Fe in order to settle on a new general government and political system – ideally a federal republic like that in the United States.<sup>54</sup> The very nature and form of the entire polity were now under debate, and the growing criticism of the old system was couched in the language of slavery.

A coup against the governor of Cartagena on June 14, 1810, set off an unprecedented wave of events leading to the formation of *juntas* and the outbreak of civil war. With the Cartagena government and military garrison now in autonomous hands, elites elsewhere gathered the confidence to push ahead with their own plans. In the past, central authorities in Santa Fe had deployed soldiers from Cartagena to quell unrest in the Andean interior, most notably in the year 1781. Without



this garrison, the viceroy had lost the most important means of enforcing his authority.<sup>55</sup> Notables in several towns established autonomous juntas, deposing incumbents and taking up the responsibilities reserved for the king's representatives. By the end of July, autonomist leaders in Santa Fe had formed their own junta, deposing the viceroy himself. The old Kingdom broke down into multiple self-governing units, with some thirty juntas established in the most important cities between July 1810 and June 1811. Given these atomized revolutions, the fear that hamlets would break away from cities, wives from husbands, and slaves from masters took on an entire new urgency for many.<sup>56</sup>

Governor Miguel Tacón of Popayán organized a pro-Regency coalition to prevent the formation of a junta in his jurisdiction. The governor's allies included recent transplants from Spain and their children – up and coming patrician families like the Grueso and Castro clans, whom we may recall as Iburgüen's most vehement opponents. Many members of the clergy also supported Tacón, and even the urban "populace" seemed to be on his side, as Tacón had convinced the Franciscans to preach his cause to parishioners. Many women also sided with him, especially those who owned stores where people increasingly congregated to talk politics. These shopkeepers spread word that challenges to the governor would usher in revolution, rape, and sacrilege. This party was referred to as the *taconistas*.<sup>57</sup>

Despite Tacón's assertive countertactics, autonomists and budding revolutionaries in the capital city also sprung into action. The group consisted of habitués of the Lemos tertulia, including Restrepo and middling officials such as his brother-in-law Agustín. The core leaders included members of old patrician families, though some families straddled social divides. The Torres clan, with both sympathizers and opponents of the governor, came from old Popayán stock via their mother, but also belonged to a newer family on their father's side. Lawyers, professors, merchants, and landholders in this group also had the backing of some members of the local militias and high clergy. In agreement with Camilo Torres, who sent letters and printed matter from Santa Fe to his relatives in Popayán, this coalition insisted that a junta had to be formed to face the current political challenges. The group was known as the *juntistas*.<sup>58</sup>

Anti-Regency elites in Cali, an important city to the north (see Map 3), also moved decisively to curtail Tacón and promote their own autonomy

within the governorate. By February 1811, Cali convinced five neighboring cities to form a union commanded by a single, provisional junta, a Confederation of “friendly cities.” The so-called confederate leaders aimed to depose Tacón and establish a junta in Popayán with authority over the entire governorate. In this conflict, civil war seemed inevitable. Already in late 1810, Tacón had reinforced some key military positions, sending scouts north to spy on the emerging confederation and intercept their communications.<sup>59</sup> In November, moreover, he organized a parade to declare war on Cali and its allies. Tacón openly displayed his forces, but a portion of the troops was not what it seemed. Though properly attired and armed, some of the potential fighters were slaves. The governor brought them for the occasion from the Quilcacé hacienda, the property of one of the convents in the city.<sup>60</sup>

From the use of decoy slave troops Tacón controversially moved toward openly calling for slaves to join his forces on a formal basis, offering emancipation in exchange for military service. Believing his enemies to have superior forces, Tacón and his allies probably hoped that the emancipation offer would lure their opponents’ slaves to their camp. But only a few hundred enslaved heeded the call, which nevertheless generated excitement through the slave grapevine. In early 1811, even before the official announcement, news spread that the governor would grant freedom to slaves willing to become his soldiers.<sup>61</sup> Similar proposals would come from other leaders later, but slaves hesitated to believe such promises, instead preferring to take advantage of the situation on their own terms.<sup>62</sup>

The growing political rift and the governor’s call to arms further stimulated slaves’ expectations and facilitated some action.<sup>63</sup> As early as January, slaves at the San Juan mine openly declared they would no longer serve their masters. Two deserters from Tacón’s army visited the mine, bringing word that the governor had decreed freedom for all the slaves. Well before it was confirmed, the deserters not only communicated Tacón’s conditional offer but augmented it into an announcement of the immediate end of slavery. San Juan leaders then sent word to Popayán that the mine no longer belonged to anyone from that city.<sup>64</sup> On February 26, Tacón ordered the slaves of San Juan to return to obedience. He had just recently punished slaves who had announced the presence of a liberating “black Queen” and the coming of freedom, but there was little he could do now. Although

nominally still enslaved, the people at San Juan comported themselves as free folk, stayed in their homes, allocated land for their garden plots, and continued mining for gold to pay for tools and other goods. Gerónimo Torres would later accuse them of offering shelter to run-away slaves from other mines.<sup>65</sup>

Some slaves did willingly join Tacón's forces, and many others were recruited by force. A private letter suggests that around 300 slaves participated in the battle that finally took place on March 28, 1811, just north of Popayán. Juan Manuel Mosquera was one of them. A slave who worked on a small sugar estate north of the city, Mosquera, along with six other slaves, rushed to Popayán after hearing about Tacón's freedom offer. As an infantry soldier, Mosquera's sole weapon was a spear. On the day of battle, as soon as the cannon roared, he ran into the woods and hid until sunset. He returned to his masters, but later fled a second time to Tacón's camp to fight; pushed to the front lines, most other slaves perished in the clash. Fleeing south with the royal treasury in tow, a defeated Tacón was also followed by about seventy surviving slaves who expected formal emancipation.<sup>66</sup>

Restrepo and the Sarastis also sought to use their slaves as soldiers for the *juntistas*, but some of them fled and joined the *taconistas* instead. Slaves who chose to side with the governor were apparently promised emancipation. Restrepo's relatives turned their Pisolé hacienda into an operational center where they kept arms and ammunition and coordinated with confederate leaders. As it became clear that the Sarastis had decided to make slaves into soldiers, some Pisolé slaves fled to the city, where Tacón recruited them. Such was the case of Agustín Sarasti's slave Victoriano and his co-worker José, Restrepo's own slave. Victoriano would later declare that he intended to defend the city and the legitimate governor rather than seek emancipation. He considered Sarasti and Restrepo traitors and fled south with Tacón.<sup>67</sup> Meanwhile, the triumphant anti-Regency coalition of Popayán, now including representatives from Cali and other cities, established a governing junta on June 26.<sup>68</sup>

The overwhelming majority of slaves distrusted Tacón's initial offer and his subsequent recruitment efforts. Tacón eventually retreated east to the Pacific districts, where he controlled Barbacoas and Tumaco. The region offered him access to gold and crucial logistical connections with pro-Regency forces in Quito and Perú.<sup>69</sup> Here he renewed

his slave recruitment plans, but only some enlisted. Most enslaved workers, like those in San Juan, stayed in their homes and refused to obey their putative masters or to trust the governor.<sup>70</sup> In spite of early and constant accusations to the contrary, slaves in the Pacific who saw an opportunity for freedom kept to themselves instead of spreading violence and destruction.

Even though civil war did not unleash the long-touted struggle of the slaves against the masters, at the end of the eventful year 1811 Tacón set out to explain his role in the delicate issue of slave recruitment. He saw the emancipation offer as a blemish on his record. Writing to authorities in Spain, he denied he had ever entertained any “alteration of the slaves,” blaming his own allies and maintaining that the pro-Regency Popayán cabildo had offered freedom to slaves against his will. To prevent defeat at the hands of approaching Cali confederates, the cabildo indeed authorized slaves to bear arms. Any slave who volunteered with a gun in hand and a horse for the defense of the city would be compensated with freedom “on behalf of the King.” Conscious of slaves’ expectations of freedom and political belonging, the cabildo further told slaves that they would be treated as vassals of the monarch, the very of treatment Ibargüen and others had demanded previously. The aldermen also decreed that loyal masters would be compensated for the value of slaves emancipated by virtue of military service. Tacón claimed that his allies in the cabildo had insisted he made public these offers to prevent “rebels” from making similar proposals to the slaves.<sup>71</sup> Without explicit consent from the governor, however, it seems unlikely that cabildo magistrates would have taken these extraordinary steps.

Members of a new cabildo set up in Popayán after Tacón’s defeat deemed their opponents’ earlier promise of manumission illegal and unwise. An offer that so clearly threatened order and the property of masters, the freshly installed magistrates reasoned, would necessarily lead to a general slave uprising. Relying on the usual tropes, they evoked an alarming image of emancipated slaves: 30,000 “beasts hallucinating with liberty” who would destroy all Popayán and Chocó, leaving the remains to Napoleon, whose agents doubtless stood behind the governor’s evil designs. Tacón, they asserted, had tried to spark a slave uprising and to keep his authority by sowing chaos. The Popayán victors even invited their antagonist slaveholders

to join forces, destroy Tacón for good, and build an autonomous government without losing their slaves.<sup>72</sup>

Slaves who supported Tacón later learned that emancipation in exchange for soldiering would not be easy to achieve, especially following the governor's final defeat. Mosquera, who had fled the battle scene but later rejoined Tacón's forces, eventually realized that his leader had run out of resources to pay him or even provide him with food and shelter. Dismissed by the governor, he found a job at a tobacco farm near Tumaco. Following Tacón's last stand in January 1812, Mosquera presented himself before the "rebel" captain who defeated the governor. Claiming to be a free man, Mosquera figured the new authorities would keep the promises made by the governor and his cabildo allies. Instead, they treated him as a traitor and returned him to bondage in 1813.<sup>73</sup>

With the 1810 breakup of the viceroyalty and the ensuing civil war, the questioning of established authorities and the potential emancipation of slaves took on new forms and significance. Autonomist leaders and pro-independence thinkers described the conflict through the idiom of slavery and emancipation. The metaphor further stimulated slaves' inquisitive minds and their culture of expectation. The indiscreet spoken, handwritten, and printed assertions of their masters "against the chains of slavery," Tacón wrote, emboldened slaves to take a stand for their own freedom.<sup>74</sup> Moreover, some slaves would point out the inconsistency between the rejection of Spanish chains and the simultaneous continuation of their enslavement. Restrepo would also dwell on this tension between liberation from Spain and domestic slavery. If a new government formed, he and others believed, its chief "obligation" must be the liberation of the slaves through antislavery legislation. The political terms for the relationships between slavery, freedom, and the law were undergoing a radical mutation. The possibility of favoring individual freedom, once intimated through the politics of litigation, was fast turning into a principle of potential general application.

### **"Supreme Obligation"**

Restrepo's expanding arguments on why and how to change the fate of slaves through legislation came into focus through his encounter with Antonio de Villavicencio. A Quito-born noble who had grown up

in Santa Fe, had connections with Cartagena, and had owned slaves in Caracas, Villavicencio arrived in the New Kingdom from Spain as an envoy of the Regency. His mission was to invite the elites to recognize the Regency's legitimacy in exchange for reforms.<sup>75</sup> Villavicencio, however, developed a more substantial political position. He believed that Spain had to establish a "liberal and just" system, allowing for all New World jurisdictions to achieve "independence" and to govern themselves while keeping "fraternal, friendly, and equitable" relations with the mother country. Best described as a home rule approach, Villavicencio's prescription would thus differ from what he termed the "old colonial system." Vassals in the New Kingdom, he told Popayán's governor, had no intention of going back to business as usual. Even slavery, according to Villavicencio, had to end. Around January 1811, he shared these ideas with Restrepo.<sup>76</sup>

Villavicencio also likened Spain's New World vassals to abject slaves whose "manumission" was at hand, and he conjured up images of innocent sheep long tyrannized by despotic officials behaving as so many wolves.<sup>77</sup> But unlike Torres, Villavicencio explicitly included domestic slaves in his reflections. He drafted a plan for what he called "the absolute abolition of slavery." Villavicencio's absolute abolition, however, was to be completed through a gradual approach, since he believed that immediate abolition would bring social and economic disruptions, and suddenly freed slaves would naturally give themselves to "disorders," "theft," and "emigration" to avoid work. Still, he maintained, slavery "must be abolished." Otherwise, slaves would end their own captivity via "murder, arson, and another thousand atrocities."<sup>78</sup>

Villavicencio's ambiguous plan to gradually end slavery rested on the free womb principle, a logic that was also adopted by Restrepo. Instead of continuing to regard the new-born children of enslaved women as slaves themselves, Villavicencio's plan granted these babies freedom at birth. Thus, he claimed, the enslaved workforce would slowly disappear. Enacting the free womb principle would prevent the general liberation of slaves that many slaves themselves hoped for. Masters would continue to hold on to their human property and the practice of slavery would eventually end by attrition. In the meantime, the slave trade would be prohibited, old and sick slaves would be set free, and young slaves would be permitted to purchase their own freedom at prices proportionate to the time they had spent in chains.<sup>79</sup>

According to this plan, gradualism was the only way to end the “barbarian and impious system of slavery” without causing economic or physical damages to the “current owners of slaves.” With the gradual approach, slaveholders would not lose their investments, and the prospect of freedom might even elicit increased productivity from the enslaved workers.<sup>80</sup> The “security and tranquility” of the slaveholding Americas, Villavicencio wrote, depended on the elites’ determination to gradually end the slave trade and slavery. The British Parliament as well as some US legislatures, he reminded his readers, knew this well. They had taken steps to gradually end slavery, skillfully avoiding actual abolition.<sup>81</sup>

Villavicencio’s plan, drafted back in 1809, was outlined as a legislative bill to be approved by a reformed Spanish government. He had meant this bill to be debated by the Spanish Cortes, which in 1809 were still expected to convene. Like many other liberals in Spain, he saw the formation of a national parliament as the correct avenue to enact reform and save the besieged monarchy. Villavicencio expected the Cortes to take a “just” and “humane” course of action by bringing slavery to a slow and controlled death. As both a “philanthropic” act as well as an unavoidable step, Villavicencio believed that an antislavery law would crown the transformation in the system of government and shape the change that was needed to resolve the crisis. A “liberal and regenerating government” would never fulfill its most “supreme obligation,” Villavicencio wrote, unless it destroyed “even the very name of slavery.”<sup>82</sup> However, his proposed law destroyed slavery in name only.

Restrepo embraced Villavicencio’s propositions for an antislavery law, including its gradualist approach and the language of “abolition.” Both men believed that the current crisis should lead to a new form of political association, one that was forged and sustained by prudent and forward-looking legislators who followed principles worked out by publicists like Filangieri. Their ideal legislative achievement, moreover, would be the gradual “abolition” of slavery – a legal oxymoron that protected the master class while containing the alleged violent consequences of an unconditional liberation of the slaves. By contrast, many slaves imagined final emancipation as an immediate but peaceful step. Nonetheless, both Restrepo and Villavicencio believed it made no sense to discuss emancipation from Spain while ignoring slaves’ cries for emancipation from slavery.<sup>83</sup>

Aiming to reassure the masters while also threatening to end their livelihood in future, and articulated as part and parcel of a broader political emancipation, this nascent anti-slavery thinking recognized its own paradoxical standing. Restrepo, Villavicencio, and Torres used the word *slavery* as a synonym for tyranny and despotism in government. Villavicencio specifically highlighted that the actual enslavement of people was of a piece with the old despotic ways of both Spain and Napoleon, for if people on both sides of the Atlantic spoke of “liberty, independence from the French yoke, and the rights of man,” domestic slaves would not tolerate their “inferior” condition for much longer. It would be a horrendous “contradiction” to wish to “still keep in chains” large groups of people whose human dignity made them worthy of “a better fate.”<sup>84</sup>

Villavicencio correctly recognized that slaves themselves would quickly identify and meditate on this ambiguity. Two masters who between them owned around 700 slaves confirmed that, following Tacón’s 1811 defeat, some slaves in the mining districts “took advantage” of the unexpected situation and refused “servitude to their masters.” If the masters were now free from the “slavery” imposed by Spain and had recovered the “rights of men they had been born with,” the slaves reportedly reasoned, then those who had suffered enslavement in the gold mines were equally entitled to their freedom. The two masters reported that among the slaves current opinion nevertheless continued to favor government by the king. They believed only the sovereign could offer protection against the “cruelty” of their owners, and they distrusted new promises that they would keep or expand the minimal protections they already had. Moreover, many still hoped to one day enjoy the same “liberty” as other “faithful vassals,” who lived peacefully under the “dominion” and “authority” of the king and his ministers.<sup>85</sup>

This apprehension on the part of the slaves is understandable. While new conceptual and practical possibilities were opening for slave and free alike, the political and military situation remained much too uncertain and open-ended. In Popayan’s Pacific districts, much like in Antioquia and Cartagena, most people in bondage continued to believe they could expand their autonomy, privileges, and maybe even achieve freedom within the old Spanish legal order. Yet emancipation in exchange for fighting with Tacón, who had claimed to defend this order, proved very hard to achieve. Even for patricians like Restrepo, the war had turned life upside down, leading him to take up arms



himself. When self-proclaimed “royalist” forces invaded the city from the south on April 22, 1812, Restrepo and his students collaborated in the defense of the city. From the windows of the building where he worked as a professor, Restrepo and his pupils fired on the enemy.<sup>86</sup> And after Tacón’s final defeat, the new government remained vulnerable to attack, with the city becoming a wartime frontier that would change hands several times over the next few years.

Already in 1811 Restrepo had anticipated a need for specie, and a potential emigration. He visited the Royal Mint, where he exchanged two gold ingots for minted coins. In 1812, he visited the Mint several more times,<sup>87</sup> and by the end of February, he had sold seven gold bars, receiving over 2200 *doblones*. Between March and May, Restrepo sold thirty-three ingots. On May 20 alone, a few days after his one-time taste of battle, he sold seventeen. He now had over 10,700 *doblones* to cover the expenses of potential exile.<sup>88</sup> At the end of August, the new government evacuated Popayán under fresh pressure from enemy forces. Even though *juntistas* recovered the city on October 9, Restrepo decided to leave the governorate for good. He took to the road and headed for his native Antioquia.

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In the judicial forum, litigants like Ibargüen and his advocate Restrepo critically considered the social links and hierarchies that bound patricians and plebeians, masters and slaves together. Despite being slaveholders, they also defended legal equality. Ibargüen insisted that former slaves should have equal standing as vassals of the king. Restrepo, in turn, believed that the king’s magistrates, and maybe even the king himself as legislator, should uphold slaves’ natural dignity by facilitating their emancipation. The old Spanish laws and legal formulae described slavery as an unnatural state, a notion Restrepo pushed farther by asserting that slaves should enjoy the basic respect afforded to free folk and even receive special consideration before the justice tribunals. Slavery should therefore be presumed to be no more than unjust captivity, and that freedom and equality were fair and prudent propositions.

The monarchical crisis and the breakup of the viceroyalty gave new meanings and implications to these propositions, whose transformative

potential came into sharper view. With slavery adopted as the preferred metaphor to express the nature of the frayed relationship between the viceroyalty and Spain, challenges and criticisms of masters now appeared more clearly as potentially legitimate challenges to the slaveholding order. Like domestic slavery, the alleged enslavement of the New Kingdom by Spain rested on an act of force. The vassals of the viceroyalty had been cruelly enslaved, and they were justified in breaking free from the tyranny of the old masters. Some slaves argued that they had suffered bondage too long and should now take control of their own destinies. Though few masters were willing to concede this idea, there were many slaves who already expected general freedom as a possible, legitimate transformation.

The link between lawgiving and slave emancipation became more clearly identified with the broader transformation of the polity. Villavicencio, and Restrepo after him, believed that the “abolition” of slavery should be the primary legislative goal of the liberal governments that seemed poised to replace the old colonial system. Villavicencio proposed that slaves were part and parcel of the ongoing conflict, and slavery a manifestation of political tyranny. However, he called for the postponement of actual abolition, leaving the status of current slaves unaltered, and the privileges of the masters untouched. Restrepo likewise adopted this approach. Many slaves realized that such a balancing act was impossible, and they continued to hope for freedom and political belonging under the king. Many took advantage of the crisis to achieve emancipation through military service, or they increased their autonomy by refusing to obey the masters altogether.

Restrepo’s prudent antislavery legislation failed to gain any traction in the context of Popayán’s convoluted crisis and with the region’s staunch slaveholding patriciate. In Antioquia, however, he eventually achieved his aim –though not without pressure from slaves themselves and help from Juan del Corral. A patrician whose convictions about equality and legislative reform seemed as honed as Restrepo’s own, Corral was a native of the town of Mompo in the province of Cartagena. Before 1810, some Mompo patricians had begun not just to preach but to practice equality, which they claimed emanated from “natural law.” This doctrine would also underpin Colombia’s emerging egalitarian, antislavery thinking.