

The Politics of Slavery, Race, Nation, and Prison Building

It was close to two in the afternoon on a bright and sunny Monday, November 25, 1833, when the captain of the British sloop *Snake*, William Robertson, spotted the white masts of the *Maria da Gloria* floating above the turquoise waves of the Atlantic Ocean ninety miles south of Rio's harbor. Robertson quickly ordered the bow up for the *Snake* and chased the *Maria da Gloria*, positioning the left side of the sloop to cut off the wind from the suspected slave vessel. The *Maria da Gloria* resisted the *Snake*'s onslaught for five hours by speeding ahead. At 238 tons, the *Maria da Gloria* was a medium-sized ship, but in the immensity of the Atlantic Ocean it resembled weightless paper. The bark sighted both Rio and its southern shore at Ilha Grande, where pristine waters gleamed under the shining sun. Since 1831, the idyllic region was Rio de Janeiro's newest slave market. The *Snake* finally caught up with the *Maria da Gloria* at seven that evening, fifty-eight miles south of Rio's harbor. Mooring the *Snake* to the *Maria da Gloria*, Robertson boarded the slaver, where he verified that it carried 423 slaves, 75 men, 34 women, 220 boys, and 94 girls below deck. He noted in the *Snake*'s logbook that the slaver had sailed from São Paulo de Loanda to Rio de Janeiro.¹

¹ www.slavevoyages.org, voyageID: 1327. On the confiscation of the *Maria da Gloria*, see "Logbook of the Proceedings on Board of His Majesty's Sloop Snake, commanded by William Robertson, Esquire, from the first day of May 1832 to 31 August 1833" at British National Archives, ADM53/1342. Commissioner George Jackson's letters to Lord Palmerston, December 26, 1833, in Great Britain, *Foreign Office Papers*, FO84/138. Great Britain, *British and Foreign State Papers*, vol. 22 (1833/34) and "Correspondence with the British Commissioners at Sierra Leone, The Havana, Rio de Janeiro, and Surinam, relating to the Slave Trade, 1834" in Great Britain, *Accounts and Papers of the House of Commons*, vol. 15; see also Richard Seymour, *Memoir of Rear Admiral Sir*

Robertson's apprehension of the *Maria da Gloria* belongs to the routine activities of the British navy in the Atlantic Ocean as naval officers and sailors participated in the global campaign to end human trafficking. The *Maria da Gloria* sailed into Rio's harbor as a prize vessel during a crucial moment when Brazilian postcolonial lawmakers and liberal reformers were intensely debating how to govern the social order of a constitutional monarchy in the largest slave society in the Americas, one where slave ships disembarked their human cargo along its borders in well-known spots of the illegal slave trade continuously until 1850. In the decade following Brazilian independence in 1822, the future of the slave trade figured prominently in lawmakers' objectives to define Brazil as a modern empire loosely premised on the idea of liberty in an antislavery era that cast slavery and human trafficking as the antithesis of modernity and progress. While the slave ship embodied the symbol of bondage, violence, suffering, and corporal punishment in the global marketplace of abolitionist ideas, the penitentiary simultaneously emerged as a potent signifier of freedom, progress, modernity, and a crucible for imagining free labor in the Atlantic World.

In this global context, Brazilian liberal reformers debated the meaning of citizenship, the status of enslaved men, women, and children as property or as persons, as well as the punishment of slave criminals in the empire. They reckoned with the impact of the slave trade on the future of race and nation in this Latin American country. In their visions of postcolonial progress, they viewed the penitentiary as a signifier for effecting broader transformations of Brazilian society under slavery to civilize the racially heterogeneous free poor into law-abiding citizens of a prosperous empire, a prosperity that significantly hinged on the enslavement of Africans, the subjugation of the native population, and the replenishing promises of the slave trade. The slave ship and the penitentiary figured prominently in debates about what constituted Brazilian modernity, its challenges, and how to place the country on the path to progress.

This chapter explores how postcolonial reformers attempted to reconcile the country's dependence on slavery and the slave trade within a nation-building project that emphasized Brazil as an empire of law, order, and liberal citizenship. I do so by discussing Brazil's transition

Michael Seymour, Bart., K. C. B. (London: Spottiswoode & Co., 1878), 109–118. The ship left the African coast at Loanda in Angola on October 25, 1833, with “18 barrels of gum copal, 105 hides, and 1500 mats” but no slaves, whom she picked up “outside the bar of the Port of St Paul de Loando.” The ship initially sailed with 423 enslaved Africans, see Great Britain, *Accounts and Papers*, vol. 51, 33–35.

from a colony to a postcolonial nation, and by analyzing the antislavery ideas of liberal and conservative reformers who played important roles in laying the ground for building the penitentiary in Rio as a crucible for modernizing the empire. By 1831, these postcolonial reformers converged around a philanthropic organization known as the Sociedade Defensora da Liberdade e Independencia Nacional (Society for the Defense of Freedom and National Independence) whose objective was to modernize Brazil's political institutions from colony to nation. The organization targeted abolition of the slave trade to Brazil and reform of the country's criminal justice system as two of its main objectives to anchor the empire on the path to progress, order, and economic prosperity.

Brazil's reputation as the last country to abolish slavery in the Americas has led to the perception that it did not participate in the conversations about the "problem of slavery" as it was articulated in the English and French Atlantic during the Age of Revolution. Historiographic discussions of antislavery discourse in the immediate postindependence period highlight its limitations and ultimate failure to stem the tide of the illegal slave trade between 1831 and 1850.² A focus on British pressure to abolish the slave trade to Brazil largely supports the reigning consensus that antislavery ideas were weak, marginal, and inconsequential in the Latin American country.³ However, as historian Jaime Rodrigues has argued, discussions of the problem of slavery were not marginal in Brazil but

² Robert Conrad, *Destruction of Brazilian Slavery, 1850–1888* (Malabar, FL: Krieger Publishing, 1972); Conrad, *World of Sorrow*; Viotti da Costa, *Da senzala à colônia*; Richard Graham, *Britain and the Onset of Modernization in Brazil* (Cambridge, UK: Cambridge University Press, 1968), 28–31; Davis, *The Problem of Slavery*. The Sociedade Defensora was in alignment with British reformers and abolitionists, who viewed the abolition of the slave trade as a precursor to producing a free labor class in the colonies, see Holt, *The Problem of Freedom*, 20–35.

³ For a discussion of antislavery discourse as marginal while emphasizing the success of slaveholders in the continuation of the institution, see Costa, *Brazilian Empire*, 127–129; Conrad, *Destruction*. On British pressure, see Bethell, *The Abolition of the Brazilian Slave Trade*. On the influence of the planter elite, see Stein, *Vassouras*; Warren Dean, *Rio Claro: A Brazilian Plantation System, 1820–1920* (Stanford: Stanford University Press, 1976); Celia Maria Azevedo, *Onda negra, negro branco: o negro no imaginário das elites: século XIX* (Rio de Janeiro: Paz e Terra, 1987); Graham, *Britain*. For studies on the structural causes of abolition, see Costa, *Da senzala à colônia*; Graham, "Causes for the Abolition of Negro Slavery in Brazil: An Interpretive Essay," *Hispanic American Historical Review* 46, 2 (1966), 123–137; Dean, *Rio Claro*. For a review of the historiography on abolition, see Weinstein, "Decline of the Progressive Planter"; Chalhoub, *Visões da liberdade*; Maria Helena Machado, *Crime e escravidão: trabalho, luta e Resistência nas lavouras Paulistas, 1830–1888* (São Paulo: Editora Brasiliense, 1987); Toplin, "Upheaval, Violence, and the Abolition of Slavery in Brazil: The Case of Sao Paulo," *Hispanic American Historical Review* 49, 4 (1969), 639–655.

were part of broader debates on postcolonial nation building. Antislavery discourse in the postcolonial era reflected anxieties about slavery's effects on the Brazilian population and its significance as the source of the country's "social ills."⁴ Brazilian antislavery ideas, Rodrigues demonstrated, were part of a "diversity of solutions" that reformers considered against the "evils" of slavery and the problems that enslaved Africans posed to "public security."⁵

Analyzing the debates on the abolition of the slave trade, legal reforms, and citizenship in the postindependence period demonstrates that they were fundamental to the adoption of the penitentiary in Brazil. Social reformers and antislavery advocates linked the abolition of human trafficking to the control of intractable segments of society, especially the multiracial free poor. They viewed the prohibition of trafficking as significant to resolving debates about race, nation, and citizenship in postindependence Brazil.⁶ Antislavery trade activists, such as Leopoldo Cezar Burlamaqui whose *memória sobre a escravidão* (essay on slavery) was written in response to a contest by the Sociedade Defensora on "the necessity to abolish the slave trade," portrayed the slave ship as the vehicle that supported Brazil's agricultural economic expansion in the early nineteenth century through access to servile labor, while denouncing it as the vile instrument that introduced Africans as an "internal enemy" into the country.⁷

The slave ship became synonymous with Rio's crowded pestilential dungeons, another highly critiqued space of confinement that reformers attacked as an incubator of epidemic diseases and criminality that spread to the rest of society. In contrast, the penitentiary, as a transatlantic disciplinary idea and a sanitized novel architecture, embodied for Brazilian reformers the possibilities of future national progress. By probing the influence of the Sociedade Defensora on antislavery ideas and the role of the organization in the construction of the Casa de Correção in Rio de Janeiro, this analysis brings emergent studies on prison building in Brazil in conversation with the expanding literature on the simultaneous development of penal reforms with abolitionism in the Atlantic.⁸ As other

⁴ Rodrigues, *O infame comércio*, 23–32.

⁵ *Ibid.*, 31.

⁶ *Ibid.*, 25.

⁷ Frederico Leopoldo Cezar Burlamaqui, *Memória analítica acerca do comércio de escravos e acerca dos males da escravidão doméstica* (Rio de Janeiro: Typographia Commercial Fluminense, 1837), ch. 1.

⁸ On penal reforms in Brazil, see Moraes, *Prisões e instituições penitenciárias*, 1–15. For an interpretation of the penitentiary in northeast Brazil, see Peter Beattie, "The Jealous

scholars have observed, the building of prisons in postemancipation societies occurred under slavery, where they played an important role in shaping the meaning of freedom for slaves and freed people.⁹

SLAVERY AND THE RACIAL POLITICS OF CITIZENSHIP

Colonized since the sixteenth century through the captaincy system, whereby the Portuguese crown granted native land and privileges to private colonists, Brazil evolved by the early nineteenth century into an economy rooted in the exploitation of native and African labor. Independence came in 1822 with very few changes in the social and economic structures of the former colony, but generated intense debates about slavery, race, and citizenship through the elaboration of enduring legal codes that maintained the power of the slaveholding elite in a constitutional monarchy, as well as contestation from below for political rights and economic justice. The events leading to Brazilian independence in 1822 pale in comparison to the dramatic antislavery and anticolonial wars of the Atlantic where republican nation-states supplanted European rule.¹⁰

Institution: Male Nubility, Conjuality, Sexuality, and Discipline on the Social Margins of Imperial Brazil,” *Comparative Studies in Society and History* 53, no. 1 (January 2011): 180–209; Beattie, *Punishment in Paradise*. On the construction of the penitentiary in São Paulo, see Fernando Salla, *As prisões em São Paulo: 1822–1940* (São Paulo: Annablume, 1999). On prison conditions in early twentieth-century Rio, see Myriam Sepúlveda Santos, *Os porões da república: a barbárie nas prisões da Ilha Grande, 1894–1945* (Rio de Janeiro: Garamond, 2009); Clarissa Nunes, Flávio Neto, Marcos Costa, and Marcos Bretas, eds., *História das prisões no Brasil*, vol. 1 (Rio de Janeiro: Rocco, 2009); Carlos Eduardo de Araújo, “Cárceres imperiais: a Casa de Correção do Rio de Janeiro: seus detentos e o sistema prisional no Império, 1830–1861” (PhD thesis, Unicamp, 2009).

⁹ See Paton, *No Bond But the Law*, 5–9; Newton, “Freedom’s Prisons,” 164–175.

¹⁰ Costa, *Brazilian Empire*; Monica Duarte Dantas and Bruno A. Dornelas Câmara, *Revolutas, motins, e revoluções: homens livres pobres e libertos no Brasil do século XIX* (São Paulo: Alameda, 2011); Gladys Sabina Ribeiro, “A liberdade em construção: identidade nacional e conflitos lusitanos no Primeiro Reinado” (PhD thesis, Universidade Estadual de Campinas, 1997); Gladys Sabina Ribeiro, *Brasileiros e cidadãos: modernidade política, 1822–1930* (São Paulo: Alameda, 2008); José Murilo de Carvalho, *A construção da ordem: a elite política imperial* (Brasília: Editora Universidade de Brasília, 1981); Hendrick Kraay, *Days of National Festivity in Rio, Brazil 1823–1889* (Stanford: Stanford University Press, 2013); Laurent Dubois, *A Colony of Citizens: Revolution and Slave Emancipation in the French Caribbean, 1787–1804* (Chapel Hill: University of North Carolina Press, 2004); Marixa Lasso, *Myths of Harmony: Race and Republicanism during the Age of Revolution, Colombia 1795–1831* (Pittsburgh: University of Pittsburgh Press, 2007); Cristina Soriano, *Tides of Revolution: Information, Insurgencies, and the Crisis of Colonial Rule in Venezuela* (Albuquerque: University of New Mexico Press, 2018).

The 1820 liberal revolution in Portugal had profound repercussions in Brazil, where the Portuguese crown had resided since 1808. The revolution called for a constitutional monarchy. Under mounting pressure, the Portuguese ruler in Brazil, Dom João VI, agreed to organize elections to send representatives to the Lisbon Cortes where its members would vote on a constitution.¹¹

Among the officials who drafted instructions for the Brazilian delegates to the Cortes was José Bonifácio de Andrada e Silva. Originating from the province of São Paulo and from a slaveholding family, José Bonifácio was educated in Europe, as were sons of the Brazilian elite. He was well versed in the ideas of the Enlightenment that provided ideological foundations to challenge colonialism and royal absolutism in the Atlantic World. He was elected to the *junta governativa* (governing board) of São Paulo, whose members represented Brazil at the Cortes. José Bonifácio assumed the leadership of the regional *junta* along with his brothers, Antonio Carlos Ribeiro and Martim Francisco, who became important in the Brazilian government after independence. He instructed the delegates to defend Brazil's status as co-kingdom with representation at the legislative assembly in Portugal and to affirm equality between Brazilian and Portuguese nationals in the future constitutional monarchy.¹²

The Portuguese liberals, however, had other designs and aimed to restore Brazil to its former colonial status by calling for the relocation of the royal family to Lisbon. Dom João returned to Portugal with his courtiers in 1821 and left his son Pedro in Brazil, after instructing him to secure the monarchy for the Bragança dynasty in the Americas. Pedro, who immigrated to Brazil with the royal court in 1808 when he was 9 years old, had made Brazil his home by 1821, and through his personal correspondence and publications in the press demonstrated that he identified with Brazilian interests rather than those of Portugal.¹³ As Prince Regent,

¹¹ For an analysis of the Cortes and the participation of Brazilian representatives, see Marcia Regina Berbel, *A nação como artefato: deputados do Brasil nas cortes Portuguesas, 1821-1822* (São Paulo: Hucitec, 1999).

¹² Costa, *Brazilian Empire*, 27-35; Gladys Sabina Ribeiro, "Nação e cidadania no jornal o Tamoio. Algumas considerações sobre José Bonifácio e a constituinte de 1823," in *Brasileiros e cidadãos: modernidade política, 1822-1930*, ed. Ribeiro (São Paulo: Alameda, 2008), 38-63.

¹³ For a contemporary account of independence, see Armitage and Southey, *History of Brazil*, 82-85; on Pedro's correspondence, see Helio Vianna, *Pedro I: jornalista* (São Paulo: Edições Melhoramentos, 1967), 90-92; Alain El Youssef, *Imprensa e escravidão: política e tráfico negreiro no império do Brasil, Rio de Janeiro: 1822-1850* (São Paulo: Fapesp, 2016).

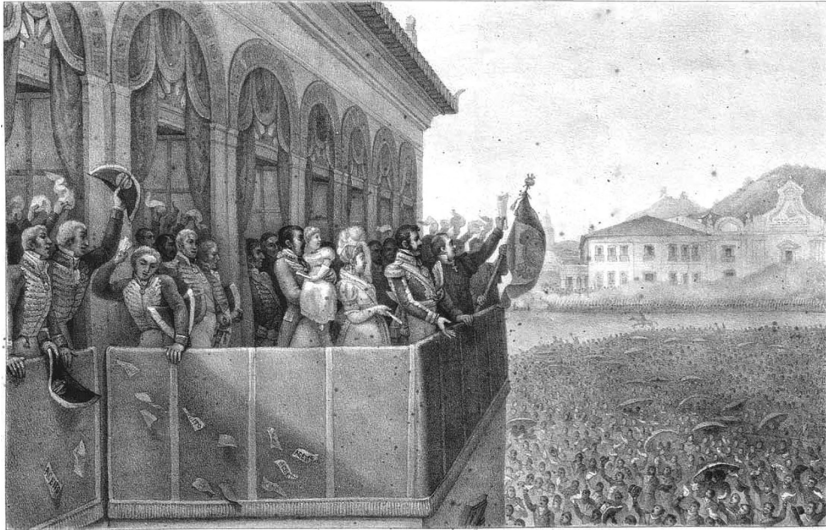
Pedro selected José Bonifácio as the leader of his cabinet of ministers and ruled in his father's absence before declaring independence in September 1822, which transformed the conflict between Portugal and Brazil into an open decolonial war. One of the first challenges that confronted the independence leader – his coronation took place in December 1822 when he assumed the title Pedro I – was securing Brazil's territorial integrity, as Portuguese military forces were still active in the northern provinces of Bahia, Piauí, Maranhão, Grão Para, and the Cisplatine territories south of Rio.¹⁴ The authorities in these regions either favored remaining under Portuguese rule or had yet to recognize the imperial government in Rio, and many harbored separatist tendencies toward republicanism.¹⁵

Continuing with José Bonifácio as the head of his government starting in January 1823, Pedro I called for a legislative assembly to draft the country's first constitution. Members of the constitutional assembly were elected from the provinces and originated from the literate class of *bacharel* – that is, holders of university degrees, especially in law and medicine – but most were heirs of the planter elite from the sugar and coffee economies of the northeast and the Paraíba Valley. Politically, the assembly included members who supported José Bonifácio's vision of a strong centralized constitutional monarchy that would lead Brazil to gradually abolish the slave trade and slavery in a distant future, while upholding its territorial unity and prosperity. The second faction constituted of supporters of royal absolutism and the maintenance of their old-regime privileges. This group included both Portuguese nationals and Brazilians who were elected to the constitutional assembly. The third group were liberal federalists who challenged José Bonifácio's policies and championed a monarchy in name only. They favored federalism and a weak monarchy as well as the continuation of slavery.¹⁶ The constitutional assembly began deliberations in May 1823.

¹⁴ Gladys Sabina Ribeiro, "Legalidade, legitimidade e soberania no reconhecimento da independência," in *Brasileiros e cidadãos: modernidade política, 1822–1930*, ed. Ribeiro (São Paulo: Alameda, 2008), 17–35; Denis Antonio de Mendonça Bernardes, "A gente infima do povo e outras gentes na confederação do equador," in *Revolutas, motins, revoluções: homens livres pobres e libertos no Brasil do século XIX*, ed. Monica Duarte Dantas and Bruno Dornelas Câmara (São Paulo: Alameda, 2011), 133–166; Aline Pinto Pereira, "Política Brasileira na consolidação da causa nacional: a disputa pela cisplatina," in *Brasileiros e cidadãos: modernidade política, 1822–1930*, ed. Gladys Sabina Ribeiro (São Paulo: Alameda, 2008), 65–82; Yousseff, *Imprensa e escravidão*, 83; Costa, *Brazilian Empire*, 33–35.

¹⁵ Vianna, *Pedro I*, 85–90.

¹⁶ Isabel Lustosa, *D. Pedro I* (São Paulo: Companhia das Letras, 2006), 166; Yousseff, *Imprensa e escravidão*; Carvalho, *A construção da ordem*.



ACCLAMATION DE DON PEDRO I^{er} EMPEREUR DU BRÉSIL;
au camp de St^e. Anna, à Rio-de-Janeiro.

FIGURE 1.1 Dom Pedro I's acclamation as the Emperor of Brazil in Sant'anna square, Rio de Janeiro

Source: Thierry Frères. *Acclamation de Don Pédro 1^{er}. Empereur du Brésil; au camp de St^e. Anna, à Rio-de-Janeiro*. Paris [França]: Firmin Didot Frères, 1839. 1 grav, litografia, col, 22 x. Acervo da Fundação da Biblioteca Nacional – Brasil.

Using Rio's nascent political press, Pedro I published articles in the city's newspapers under various pseudonyms to disseminate his political ideas on Brazilian independence, challenge his critics, and address important problems facing the new nation.¹⁷ In one of his first publications where he recounted under a pseudonym the events leading to the declaration of independence, he projected himself as the embodiment of a racially inclusive Brazil. The emperor boldly asserted that while he was acclaimed as the country's liberator (see Figure 1.1), he knew that his "blood was of the same color as that of the black slaves," a reference to racialized slavery and an appeal to free people of color, who were an important constituent of the new nation.¹⁸ For example, Antonio

¹⁷ Vianna, *Pedro I*, 68–90; Lustosa, *Nascimento da imprensa Brasileira* (Rio de Janeiro: Jorge Zahar, 2003).

¹⁸ Vianna, *Pedro I*, 13, 18–29. On race and popular uprisings in the postindependence era, see Dantas and Câmara, *Revoltas, motins, e revoluções*; Denis Antonio de Mendonça Bernardes, "1817," in *Revoltas, motins, revoluções: homens livres pobres e libertos no Brasil do século XIX*, ed. Monica Duarte Dantas (São Paulo: Alameda, 2011), 17–95.

Pereira Rebouças, a prominent Afro-Brazilian lawyer whose mother was a free black woman of direct slave ancestry, had lent his voice to the cause of independence in the northern province of Bahia. He became an important defender of the right to equal citizenship enshrined in the 1824 constitution as well as the rights to free speech and property.¹⁹ Pedro's allusions to race and racism would appeal to people like Rebouças or the heirs of the 1817 revolution in Pernambuco who, despite their personal achievements, suffered from racial prejudice in their interactions with the Brazilian elite.²⁰

Continuing his appeal to the Brazilian populace and bearing the banner of Brazilian nationalist sentiments, Pedro I published an anonymous letter in the press in May 1823 where he identified himself as an "ultra-Brazilian Brazilian."²¹ As the constitutional assembly deliberated the legal foundation of Brazil, he published a revealing article on the necessity of abolishing the slave trade, which identified more squarely his socioeconomic and political vision for postcolonial Brazil.²² The emperor viewed the issue as fundamental to Brazil's political and economic development. Identifying himself as "a philanthrope," Pedro I asserted that he was motivated to expose his "ideas about the slave trade, which, in [his] opinion, is one of the reasons Brazil lagged behind as a nation." He declared that "few people ignored that slavery was the cancer that corroded Brazil and that it was important to extinguish it."²³ Slavery, the emperor continued, brought great evil to Brazil and the dependence

¹⁹ Though born free, Rebouças' mother was likely of direct slave ancestry, as argued in Grinberg's recently translated biography, Keila Grinberg, Kristin McGuire, and Barbara Weinstein, *A Black Jurist in a Slave Society: Antonio Pereira Rebouças and the Trials of Brazilian Citizenship* (Chapel Hill: University of North Carolina Press, 2019), 13–14; on his participation in the independence movement in Bahia and experience of racism, see *ibid.*, 26–37. As Grinberg argued, Rebouças' legalism and defense of the right of property oftentimes turned him into a defender of slavery.

²⁰ Grinberg, *Black Jurist*; Bernardes, "1817," 17–95; Bernardes, "A gente ínfima," 133–166.

²¹ Vianna, *Pedro I*, 67–72. The letter critiqued the remaining bastion of Portuguese support led by José da Costa Carvalho, a member of the constitutional assembly from Bahia who then supported Brazil's co-kingdom with Portugal. The emperor's essay argued that Brazil had become tired of living under Portugal's "iron yoke" and that the Latin American country had nothing to gain politically and economically from remaining the colony of a colony. On independence, slavery, and citizenship in Rio's nascent political press, see Youssef, *Imprensa e escravidão*; Kraay, *Days of National Festivity*, Ribeiro, "A liberdade em construção."

²² Youssef, *Imprensa e escravidão*, 88–90; *O Espelho*, 160, May 30, 1823. For the manuscript version of the article, see Vianna, *Pedro I*, 78–84.

²³ Vianna, *Pedro I*, 79–81.

on slave labor ruined the national character, instilled vices, discouraged industrialism, and led to despotism. Slavery created a class of idle people because slaveowners were not motivated to improvise, create, and work since they could always rely on their “slaves, ordering them to earn a living” on their behalf. The statement was a reference to the *ganho* system in urban places like Rio de Janeiro, São Paulo, or Bahia, which is the practice whereby enslaved people sold food and/or exchanged their services on the market on their enslavers’ behalf.²⁴ The emperor argued that slavery was costly because every ten slaves required a *feitor* – that is, an overseer to supervise their work with violence – and that unrecovered fugitive slaves were an economic loss to their enslavers. He outlined steps for the abolition of the slave trade and a gradual emancipation, accompanied by subsidized immigration of Portuguese immigrants to replace the captives with free workers.²⁵

Correspondingly, in 1823, José Bonifácio wrote a dossier to the constitutional assembly where he outlined his ideas on establishing a national politics on slavery, the slave trade, and the indigenous population, which he considered to be the most significant issues facing the nation. He called for the gradual abolition of slavery, the promulgation of a law to end the slave trade, legislation on state regulation of planter violence on the enslaved, and establishing a path to freedom through disciplining a free labor class out of slavery. If Brazil were to establish its foundation as a constitutional monarchy and a nation of laws, he asserted, it could not continue its participation in human trafficking, which introduced a foreign population and an internal enemy within the nation.²⁶ The slave trade, José Bonifácio contended, had a negative effect on the formation of race and nation in Brazil because it resulted in an ethnically heterogeneous population of diverse legal status. Slavery posed a challenge to establishing a liberal criminal justice system. He proposed subsidized immigration of Portuguese laborers to replace the African slave population, whose culture he viewed as antithetical to the Brazilian national character. His antislavery project touched at the core of anxieties about

²⁴ Algranti, *Feitor ausente*.

²⁵ Vianna, *Pedro I*, 78–84.

²⁶ José Bonifácio de Andrada e Silva, *Representação à Assembléa Geral Constituinte e Legislativa do Império do Brasil sobre a escravatura* (Paris: Typographia de Firmin Didot, 1825), 43. For an analysis of Bonifácio’s ideas on native and African slavery, see Yuko Miki, “Slave and Citizen in Black and Red: Reconsidering the Intersection of African and Indigenous Slavery in Postcolonial Brazil,” *Slavery and Abolition*, 35 no. 1 (2013): 11–15; Manuela da Cunha Carneiro, *Negros estrangeiros: os escravos libertos e sua volta a África* (São Paulo: Brasiliense, 1985).

the tension among race, nation, and citizenship in Brazil. While the project promoted the end of the slave trade and the gradual emancipation of slavery, it ultimately sought to lessen these conflicts and to produce a free white working class over time.

José Bonifácio and Pedro I's utilization of Rio's political press to disseminate antislavery ideas and proposals for the transition to free labor was significant, because they were among the first to bring slavery and human trafficking into open discussion as a matter of national interest in the nascent Brazilian political press.²⁷ They were also writing in the context of the fifteen years of bilateral treaties among England, Portugal, and Brazil to abolish the traffic. British diplomats aimed to secure Brazil's commitment to honor these treaties as it became an independent nation. Meanwhile, Pedro I and José Bonifácio's government imposed strict censorship on the press to ensure that only ideas that were aligned with their projects were published and to suppress rebuttals from proslavery advocates.²⁸ The objective may have been, as Alain Youssef argued, to prepare public opinion on the question of slavery and postcolonial nationhood ahead of parliamentary debates on the constitution. There, Brazilian citizenship became an important issue of contention.

The legislative assembly began discussions on the draft of the constitution in September 1823. The constitutional draft defined Brazilians as "all free men living in Brazil and born in it," which included *libertos* (freed people) and Portuguese nationals living in Brazil before October 12, 1822. However, only *libertos* born in Brazil could exercise the right to vote, which itself depended on property and income levels.²⁹ The constitutional project affirmed slaveowners' rights and the patriarchal basis of the slave society by establishing the "inviolability of property" among the rights that Brazilian citizens could enjoy, an important, though

²⁷ Youssef, *Imprensa e escravidão*, 14–31. According to Youssef, the first person to publish on antislavery and the slave trade in the Brazilian press was Hypolito José da Costa in *Correio Brasiliense*, 1811, followed by J. J. Azeredo Coutinho, who opposed da Costa's stance, see Youssef, *Imprensa e escravidão*, 85–87. Azeredo Coutinho had published a defense of slavery in the 1790s, see Kirsten Schultz, "Slavery, Empire and Civilization: A Luso-Brazilian Defense of the Slave Trade in the Age of Revolutions," *Slavery and Abolition* 34 no. 1 (2013): 98–117.

²⁸ According to Youssef, there were only two articles on slavery and the slave trade published in the 1820s, largely due to Pedro and José Bonifácio's censorship, see Youssef, *Imprensa e escravidão*, 14–31.

²⁹ Brasil, *Diário da Assembléia Geral Constituinte e Legislativa do Império do Brasil*, 1823 (Brasília: Ed. fac-similar, 2003), vol. 2, título II, capítulo I, article 5.

indirect, allusion to chattel slavery. This tacit upholding of slaveowners' property right was made explicit in article 265, which declared that "the constitution recognized the contracts between masters and slaves."³⁰ José Bonifácio's ideas on slavery, its gradual emancipation, and native colonization were articulated in article 254, which declared that the government should "create establishments for the catechism and civilization of the Indians, the slow emancipation of the slaves, their religious and industrial education."³¹

The legislative assembly almost immediately began debating who could be considered Brazilian given the country's heterogeneous population.³² Senator Vergueiro, of the Vassouras plantation town in Rio de Janeiro's hinterland, called on the assembly to amend the title of the section of the constitution on Brazilian citizenship. Vergueiro suggested replacing the phrase "on the members of the society of the Empire of Brazil" with "on the citizens of the Brazilian Empire."³³ Although Vergueiro's amendment was originally defeated, it was brought back to discussion by senator Montezuma from Bahia in the northeast, who argued that it was important to debate the "difference between Brazilians and Brazilian citizens," as the term "members of the empire" in the constitutional draft was too vague.³⁴

At issue was the reality that Brazil's population consisted of slaves and free people as well as the indigenous population, some of whom lived

³⁰ Brasil, *Diário*, vol. 2, título II, capítulo II, article 5. On slavery, the law, and patriarchy in the legal formation of Brazil, see Jurandir Malerba, "Os Brancos da Lei": *Liberalismo, Escravidão, e mentalidade patriarcal no Imperio do Brasil* (Maringá: Editora da Universidade Estadual de Maringá, 2004); Flory, *Judge and Jury*.

³¹ Brasil, *Diário*, vol. 2, título XIII, article 254. José Bonifácio and his brother Antonio Carlos Ribeiro were among the committee of seven lawmakers who wrote the draft. His nephew, José Ricardo da Costa Aguiar D'Andrada, was also a member of that committee, showing the strong influence of the Andradas family on Brazilian affairs.

³² On race and citizenship at the 1823 constitutional assembly, see Andréa Slemian, "Seriam todos cidadãos? Os impasses na construção da cidadania nos primórdios do constitucionalismo no Brasil (1823–1824)," in *Independência: história e historiografia*, ed. Jancsó István (São Paulo: Editora da Hucitec, 2005), 829–847; Yuko Miki, *Frontiers of Citizenship: A Black and Indigenous History of Postcolonial Brazil* (Cambridge, UK: Cambridge University Press, 2018), 28–37; Kirsten Schultz, "La independencia de Brasil, la ciudadanía y el problema de la esclavitud: a Assembleia Constituinte de 1823," in *Revolución, independencia y las nuevas naciones de América*, ed. Jaime O. Rodrigues (Madrid: Fundación MAPFRE TAVERA, 2005), 425–449; Márcia Berbel and Rafael de Bivar Marquese, "The Absence of Race: Slavery, Citizenship, and Pro Slavery Ideology in the Cortes of Lisbon and the Rio de Janeiro Constituent Assembly (1821–4)," *Social History*, 32, no. 4 (2007): 415–433.

³³ Brasil, *Diário*, vol. 3, 89.

³⁴ Brasil, *Diário*, vol. 3, 90.

in frontier regions. In addition, there were *libertos* of Brazilian birth, but also others who were born in Africa. The discussion on citizenship was multilayered and engaged whether Brazilian-born *libertos* and the indigenous population could become citizens. Montezuma argued that “to be Brazilian, is to be a member of Brazilian society,” but that not all Brazilians should enjoy equality of rights as some could be active citizens and others passive citizens.³⁵ Senator França then brought to the floor the reality that Brazil had a racially and legally diverse population. França inquired into how to define who were Brazilians and who were citizens, and whether birthplace was an important benchmark. For example, he argued, “the children of the enslaved – *filhos dos negros* – as well as those Brazilian born slaves – *crioulos* – though born in Brazil could not be considered Brazilian citizens.”³⁶ He called for defining Brazilians as people born in Brazil and identifying Brazilian citizens as those who “had civil rights.” He also declared that although the native population “who lived in the woods are Brazilians,” they were “not Brazilian citizens, for they do not embrace our civilization.”³⁷ For the indigenous population citizenship would come only through conquest and colonization.

França’s intervention touched squarely on the tensions of slavery, race, and citizenship as well as their entanglement with the colonization of the native population. There were overlapping arguments about the inclusion or exclusion of native people and *libertos* in Brazilian citizenship that scholars of the Brazilian constitution have argued resulted in a liberal defense of slavery and a remarkable “absence of race” in the constitution.³⁸ The discussion on the inclusion or exclusion of the native population and *libertos* as citizens was deeply shaped by racist ideas, because both populations were seen as threats to Brazil due to their alleged lack of culture, industrialism, and their existence outside the bounds of the nation-state.³⁹ Montezuma rebutted França’s argument about slaves born in Brazil – *crioulos captivos* – and the native population on the grounds that the discussion on citizenship only applied

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Berbel and Marquese, “Absence of Race,” 418; Miki, *Frontiers of Citizenship*, 29.

³⁹ This is especially true for discussions on citizenship and the native population living in frontier territory, see Miki, *Frontiers of Citizenship*, 28–37. On the constitutional debates, race, and inclusive citizenship, see Slemian, “Seriam todos cidadãos?”; Andréa Slemian, *Sob o império das leis: constituição e unidade nacional na formação do Brasil (1822–1834)* (São Paulo: Editora da Hucitec, 2009); Berbel and Marquese, “Absence of Race.”

to those who “constituted Brazilian society” and could have rights. He asserted that the native population was hostile to the idea of the Brazilian nation, with which they “live in constant war.”⁴⁰ Montezuma contended regarding Brazilian-born slaves – *crioulos captivos* – that slavery was a “black mark on our political institution” of which Brazil needed to purify itself, not out of ethical opposition to servile labor but through concerns for its racial legacy.⁴¹

Certainly, discussions on Brazilian-born slaves and citizenship was only addressed in the eventuality of them becoming *libertos* through manumission. Thus, legislators debated whether *libertos* could become citizens given their slave past and framed the issue in terms of the deleterious legacy of slavery in Brazil. Legislator Rocha Franco argued that citizenship was not just a matter of birth and residency but also of property, because to be a citizen it was “necessary that one participates” in the life of society through property ownership.⁴² Senator Almeida e Albuquerque then asserted that because of their slave past, *libertos* could not become citizens. Though they were self-emancipated, he declared, they “had not acquired [Brazilian] customs” and had “not achieved some degree of civilization.”⁴³ Citizenship then for *libertos*, as it was for the native population in different but overlapping ways, was a matter of worthiness and civilization, which were code words for racial difference in the parliamentary discussions. There was not a parallel discourse on Portuguese nationals living in Brazil at the time of independence. All that was required of Portuguese nationals was allegiance to the new postcolonial state to receive the benefits of Brazilian citizenship.

The racial and cultural legacy of slavery on Brazilian institutions and its population became a point of commonality between antislavery and proslavery voices in the constitutional debates. Deputy Costa Barros expressed this view bluntly when he argued that he “could never consent to giving the title of Brazilian citizen indistinctly to every slave who had achieved manumission.” He declared that “uncivilized Blacks – *negros buçaes* – without skills or merit are not ... worthy of this honorable prerogative.” He regarded them “as harmful members of society” and “a burden on the nation.”⁴⁴ He thus suggested that the constitution’s article on Brazilian citizenship should stipulate that in addition to securing

⁴⁰ Brasil, *Diário*, vol. 3, 90.

⁴¹ *Ibid.*

⁴² Brasil, *Diário*, vol. 3, 111.

⁴³ Brasil, *Diário*, vol. 3, 112.

⁴⁴ Brasil, *Diário*, vol. 3, 130.

manumission, only “slaves who have employment and a skill” could be eligible for citizenship.⁴⁵ Senator Cunha Carneiro rejected Costa Barros’ statements as unfounded and critiqued the idea that *libertos* were unskilled, reminding the assembly of their skilled and specialized occupations during slavery and their achievement of self-liberation through their own arduous work.⁴⁶

However, it was left to senator Silva Lisboa to emphatically reject the burden of employment and wage-earning skills as a precondition for citizenship for *libertos*. He warned the assembly that the exclusion of *libertos* from citizenship on various thresholds could lead to a disastrous situation for the nation, as had happened in St. Domingue (1791–1804). The events of the Haitian Revolution and the abolition of slavery in the French colony by the enslaved were still fresh in the mind of Brazilian lawmakers as they debated Brazilian citizenship and the future of its slave economy. Silva Lisboa argued that African birth should not prevent *libertos* from achieving citizenship once they were declared manumitted in Brazil. He strikingly identified the objections of citizenship for African *libertos* as racially motivated and an expression of anti-African sentiments that were not applied to other groups.⁴⁷

Discussions on the constitutional draft ended abruptly in November 1823 when Pedro I dissolved the assembly. He nominated a committee to write a new constitutional text, which was promulgated in March 1824 and imposed on parliament unilaterally. The constitution extended citizenship to “anyone born in Brazil regardless of being *ingenuos* or *libertos*.” *Ingenuos* identified Brazilians of free birth, while the term *libertos* identified ex-slaves.

Scholars of the 1824 constitution argued that it was distinctive for the “absence of race” in its definition of Brazilian citizenship. As these studies posited, members of the constitutional assembly concurred that to deny Brazilian-born *libertos* citizenship, as the United States did to US-born freed people, could shatter the economic foundation of the empire, as events in revolutionary France and St. Domingue had shown.⁴⁸ I would argue that race was ever present in framing citizenship for free non-white people born in Brazil as a slave society. Citizenship was racialized

⁴⁵ Ibid.

⁴⁶ Brasil, *Diário*, vol. 3, 144.

⁴⁷ Brasil, *Diário*, vol. 3, 145–146.

⁴⁸ Berbel and Marquese, “Absence of Race”; Brasil, *Diário*, vol. 3, 89–120. On racial silencing and citizenship, see Chalhoub, “The Politics of Silence,” 73–87.

because the work of race embedded in notions about worthiness for freedom through demonstrating gainful employment that were important in the parliamentary debates infused the nation's penal laws and punitive apparatus, from local ordinances to the 1830 criminal code and the 1832 code of criminal procedure.⁴⁹ The 1824 constitution observed a tense silence on the existence of enslaved persons in the empire, which complicated how equality before the law would be implemented in practice for free people of color. That silence laid the ground for debates over the struggle for civic equality, race, and citizenship in articulating a penal system to discipline the enslaved as well as the free population, an issue that could not be glossed over as occurred in the 1824 constitution.⁵⁰

PUNISHING THE ENSLAVED AND THE RACIALIZED
FREE POOR IN AN EMPIRE OF LAW

The call to reform Brazil's colonial prison system originated from the constitution's mandate for "clean, secure, and well-organized prisons" as well as *casas de correções* to discipline vagrants, beggars, and convicts.⁵¹ As discussed previously, an annual income of 200 *milréis* was an important prerequisite for citizenship in the constitutional debates. It was not a huge sum, as *ganhadores*, for instance, made much more than that.⁵² Reforming Brazil's colonial dungeons and building modern prisons to discipline the poor into law-abiding citizens instigated penal reforms after the promulgation of the 1824 constitution. An 1828 law authorized municipal chambers to nominate commissions of local

⁴⁹ Miki wrote of "deracialized citizenship" in interpreting the 1824 constitution; I employ citizenship as a racialized concept by looking at it in the practice of daily life, policing, and punishment in this study; see Miki, *Frontiers of Citizenship*, 33. On the work of race, race making, and racialization, see Holt, "Marking: Race, Race-Making, and the Writing of History," *American Historical Review* 100 no. 1 (1995): 1–20; Fields, "Slavery, Race, and Ideology," 95–118.

⁵⁰ On racial silence and the law, see Chalhoub, "The Politics of Silence," 73–87; Hebe Maria Mattos, *Das cores do silêncio: os significados da liberdade no sudeste escravista – Brasil século XIX* (Rio de Janeiro: Nova Fronteira, 2014); Miki, *Frontiers of Citizenship*; Grinberg, *Black Jurist*.

⁵¹ "Constituição política do Império do Brasil (25 de Março 1824)," article 179 in Brasil, *Coleção de leis do Império do Brasil de 1824*, vol. 1 (Rio de Janeiro: Typographia Nacional), p. 7; Morães, *Prisões e instituições penitenciárias*.

⁵² José João Reis, "'The revolution of the ganhadores': Urban labour, ethnicity and the African strike of 1857 in Bahia, Brazil," *Journal of Latin American Studies* 29 no. 2 (1997): 355–393; Patricia Acerbi, *Street Occupations: Urban Vending in Rio de Janeiro, 1850–1925* (Austin: University of Texas Press, 2017).

citizens to visit the empire's dungeons and to report on their conditions.⁵³ The results of these commissions' visits revealed that Brazil's prisons were overcrowded, insecure, and without organization or a regular record-keeping system of detainees.⁵⁴ Rio de Janeiro had two civil prisons, the Aljube and the Calabouço. The government held political prisoners in military fortresses and in old ships around the city's harbor, especially during the turbulent independence period.⁵⁵ The Calabouço was a slave dungeon situated in an old military fortress. The Aljube was a colonial jail located on the side of Conceição Hill at the eastern entrance of the city. Originally designed to hold a dozen or so ecclesiastical prisoners, the Aljube became a notoriously overcrowded dungeon after 1808 when it was turned into a civil jail. The 1828 report from the commission on prisons described the Aljube as a fetid dungeon where prisoners, poorly covered in filthy rags, begged for mercy and death at the same time. It was called a school for criminals and a "hellish den where everything was disorganized" and where "the most vicious criminal shared the same cell with those merely accused."⁵⁶ The worst section of the prison was a lower room suggestively called Guinea – Guiné – where slaves and free prisoners indiscriminately slept on the dungeon's humid floor. The term referenced the racial composition of the inmates, but also the disease-ridden hold of the slave ships that brought enslaved Africans to Brazil. The 1828 commission counted 85 prisoners in the Guiné section of the Aljube and 390 detainees overall, an incredibly high number considering that the jail was originally designed to hold 12–20 individuals.⁵⁷ The jailers assured the members

⁵³ Morães, *Prisões e instituições penitenciárias*, 13–15.

⁵⁴ For an analysis of the reports for prisons in São Paulo, see Salla, *As prisões em São Paulo*, 48–59; Marilene Antunes Sant'Anna, "De um lado, punir; de outro, reformar: idéias e projetos em torno da implantação da Casa de Correção e do Hospício de Pedro II no Rio de Janeiro" (Master's thesis, Universidade Federal do Rio de Janeiro, 2002); José Vieira Fazenda, *O Aljube, Revista do Instituto Histórico Geográfico Brasileiro*, vol. 1 (1919): 358–362.

⁵⁵ Holloway, *Policing Rio de Janeiro*, 55–59; Araújo, "Duplo cativo"; José Vieira Fazenda, *Antiquilhas e memórias do Rio de Janeiro* (Rio de Janeiro: Imprensa Nacional, 1921), 143–153.

⁵⁶ Built in 1732, the Aljube originally served as an ecclesiastical jail, but became a civil prison in 1808 when the Portuguese crown relocated to Rio de Janeiro and closed the city's old civil jail, the Cadeia Velha. The government relocated prisoners from the Cadeia Velha to the Aljube, which was renamed Cadeia da Relação and became Rio's civil prison. Fazenda, *Antiquilhas e memórias*, 358–362; Moreira de Azevedo, *O Rio de Janeiro; sua história, monumentos, homens notáveis, usos e curiosidades* (Rio de Janeiro: Livraria Brasileira Editóra, 1877/1969), 392–406.

⁵⁷ Fazenda, *Antiquilhas e memórias*, 361.

of the commission that a great number of prisoners died from poor ventilation, especially during the heated summer months.⁵⁸ Prisoners in the upper section of the Aljube begged for food from passers-by through the dungeon's opening onto the streets. By 1830, there were more than 500 prisoners at the Aljube, which prompted the government to transform a fortress on Snakes' Island – Ilha das Cobras – into a civil prison to receive excess detainees. The Calabouço overflowed with slave detainees in 1830, with a reported 200 slaves, many of them abandoned by their owners or brought to the dungeon for rigorous flogging.

When a new legislature was elected in 1826, it was filled with lawmakers who were opposed to Pedro's leadership, especially in the chamber of deputies. The senate was mostly controlled by Pedro I, who selected the lawmakers from the list of elected officials from the provinces.⁵⁹ Tensions between the legislature and the emperor fed liberal opposition to his rule in parliament and the nascent political press.⁶⁰ In 1826, Pedro I signed a convention with England that committed Brazil to end its participation in the slave trade in three years based on the 1810–1817 antislavery

⁵⁸ Ibid.

⁵⁹ The disagreements between the emperor and the opposition in parliament became more pronounced when Pedro I unilaterally signed the 1826 convention with England to abolish the slave trade to Brazil in four years. In addition, Pedro I engaged Brazil in the Cisplatine war with its southern neighbor over the *Banda Oriental*, which had been added to the Brazilian territory during independence. Thousands of German and Irish mercenaries arrived in Rio to fight in the Cisplatine war. They were promised native lands in frontier regions but found a precarious life and high cost of living in Rio de Janeiro, where many settled after defecting from the war. There, they joined the ranks of the poor and became part of the city's police. On rising opposition to the emperor in parliament and drafting the 1830 criminal code, see Vivian Chieregati Costa, "Codificação e formação do Estado-nacional Brasileiro: o Código criminal de 1830 e a positivização das leis no pós independência" (PhD thesis, Universidade de São Paulo, 2013), 90–97; Slemian, "Nação independente, um novo ordenamento jurídico: a criação dos códigos criminal e do processo penal na primeira década do império do Brasil," in *Brasileiros e cidadãos: modernidade política, 1822–1930*, ed. Gladys Sabina Ribeiro (São Paulo: Alameda, 2008), 175–206; Slemian, *Sob o império das leis*. On the German and Irish people who revolted in Rio in June 1828, see Costa, "Codificação e formação," 90–92; Roderick J. Barman, *The Forging of a Nation* (Stanford, CA: Stanford University Press, 1988), 150. After the defeat of Brazil in the Cisplatine war, the lower chamber began to openly defy the emperor's policies; Parron, *A política da escravidão*, 49–50, 72–74; Miki *Frontiers of citizenship*.

⁶⁰ Costa, "Codificação e formação," 84–95; José Murilo de Carvalho and Lucia Maria Bastos Pereira das Neves, *Repensando o Brasil do oitocentos: cidadania, política e liberdade* (Rio de Janeiro: Civilização Brasileira, 2009); Barman, *Forging of a Nation*, 142–143; Parron, *A política da escravidão*, 47; Vanteuil Pereira, *Ao soberano Congresso: direitos do cidadão na formação do Estado Imperial brasileiro (1822–1831)* (São Paulo: Alameda, 2010), 125–126.

treaties. In that same year, Pedro I deployed the *Poder Moderador* to overturn a death penalty sentence of an enslaved man in Pernambuco, which added to the rift between parliament and his government. The case involved an enslaved man who was convicted of multiple homicides of his enslaver's family.⁶¹ Although the 1824 constitution banished the stocks and corporal punishment, it did not abolish capital punishment. When Pedro I protested the sentence, he was informed that there was widespread popular support for the public hanging as it involved slave violence and rebellion. The execution proceeded despite Pedro I's opposition to the enforcement of the death penalty. In retaliation, the emperor passed a law of exception in September 1826 that gave him the authority to "pardon or reduce sentences," a measure that conformed with article 101 of the constitution. The article gave the emperor special prerogatives through the *Poder Moderador* to "pardon and reduce penalties" of convicted criminals.⁶²

The September 1826 law stipulated that the enforcement of the death penalty would "not be executed, without prior notification to the emperor," who retained the authority to "pardon or lessen sentences or issue amnesties."⁶³ The law identified the emperor as the ultimate arbiter in the criminal process, particularly in matters relating to slave crimes that opposed the enslaved to their enslavers. By superseding the powers of the court, the judge, and the jury system, who in effect represented property holders, Pedro I sought to impose a monopoly on the deployment of violence to punish the enslaved.⁶⁴ The third article of the 1826 law allowed the convict to appeal a death penalty sentence within eight days of the verdict. The law ordered the court rapporteur to forward the copy of the

⁶¹ João Luiz Ribeiro, *No meio das galinhas as baratas nao tem razao: a lei de 10 de Junho de 1835, os escravos e a pena de morte no imperio brasileiro* (Rio de Janeiro: Renovar, 2005), 11–14.

⁶² The *Poder Moderador* was a fourth power that could be exercised by the Brazilian emperor to counterbalance the popular authority exercised by the legislature, the judiciary, and the executive, which were the other branches of government; see Miriam Dolhnikoff, "Império e governo representativo: uma releitura," *Caderno CRH* 21, no. 52 (2008): 13–23; Barman, *Forging of a Nation*.

⁶³ Law of September 11, 1826, in Brasil, *Coleção de Leis do Império do Brasil – 1826*, vol. 1 pt. I, (Rio de Janeiro: Typographia Nacional), 11.

⁶⁴ Beattie, "Born under the Cruel Rigor of Captivity, the Supplicant Left It Unexpectedly by Committing a Crime: Categorizing and Punishing Slave Convicts in Brazil, 1830–1897," *Americas* 66, 1 (2009): 11–55; Ribeiro, *No meio das galinhas*, ch. 3; Ricardo Pirola, *Escravos e rebeldes nos tribunais do Império: uma história social da lei de 10 de junho de 1835* (Rio de Janeiro: Ministério da Justiça, Arquivo Nacional/Prêmio Arquivo Nacional de Pesquisa 34, 2015).

sentence and court records to the Council of State.⁶⁵ The death penalty became a controversial issue in the debates to draft the 1830 criminal code, but the opposition to Pedro's rule intensified in the buildup to promulgating the code.

The opposition against Pedro in parliament was divided between radical liberals – *exaltados* – and moderate liberals – *moderados* – and included politicians like Evaristo Ferreira da Veiga, who became the editor of the popular *Aurora Fluminense* and one of the founders of the Sociedade Defensora da Liberdade e Independencia Nacional, together with Honório Hermeto Carneiro Leão, who became minister of justice; Martim Francisco Ribeiro de Andrada, the brother of José Bonifácio who had written the 1823 constitutional draft debated in parliament; and Antonio Pereira Rebouças, an Afro-Brazilian jurist committed to liberal jurisprudence.⁶⁶ Other lawmakers who joined the liberal moderate front in opposition to the emperor were Bernardo Pereira de Vasconcellos, the scion of a slaveholding family from Minas Gerais; Antonio Ferreira França, a deputy from Bahia who participated in the 1823 constitutional assembly; and Luis Francisco de Paula Cavalcanti de Albuquerque, who was elected to the 1823 legislature from Pernambuco. Some of these legislators owned important newspapers in Rio de Janeiro that they utilized to publicize their opposition to the emperor.⁶⁷ The political press became very active during this period and disseminated pro- and antislavery ideas while reflecting on the challenges of Brazilian citizenship in a slave society with a racially heterogeneous population.⁶⁸ The *Aurora Fluminense*, created in 1827 and edited by Evaristo da Veiga, was among the city's most prolific newspapers. It represented along with the *Diário Fluminense* the views of moderate liberals in parliament.

⁶⁵ Brasil, Coleção de Leis, 1826.

⁶⁶ Costa, "Codificação e formação," 92; Pereira, *Ao soberano congresso*, 217.

⁶⁷ Costa, "Codificação e formação," 90–95; Kraay, *Days of National Festivity*, 30–35; Youssef, *Imprensa e escravidão*, 124–127. For a discussion of the Sociedade Defensora's members and its publications, see Marcelo Marcello Otávio Neri de Campos Basile, "Sociabilidade e ação política na corte regencial: a sociedade defensora da liberdade e independencia nacional," *Dimensões*, no. 18 (2006): 349–383; Marco Morel, *As transformações dos espaços públicos: imprensa, atores políticos e sociabilidades na cidade imperial, 1820–1840* (São Paulo: Editora Hucitec, 2005), 61–147; Jeffrey D. Needell, *The Party of Order: The Conservatives, the State, and Slavery in the Brazilian Monarchy, 1831–1872* (Stanford, CA: Stanford University Press, 2006), 38–55.

⁶⁸ Youssef, *Imprensa e escravidão*; Morel, *Transformações*; Marcelo Marcello Otávio Neri de Campos Basile, "Linguagens, pedagogia política e cidadania: Rio de Janeiro, cerca de 1830," in *Brasileiros e cidadãos: modernidade política, 1822–1930*, ed. Gladys Sabina Ribeiro (São Paulo: Alameda, 2008), 205–224.

Both newspapers were at the forefront of disseminating ideas against the slave trade and the *moderados*' call for a strong constitutional monarchy that shied away from absolutism to protect order. In 1826, when Brazil signed the convention with England to end human trafficking by 1830, it was widely publicized and championed in both newspapers.⁶⁹ The radical liberals – *exaltados* – were represented by the *Luz Brasileira*, *A Nova Luz Brasileira*, *O Tribuno do Povo*, and *O Repúblico*. The *exaltados* were middle-class public functionaries who did not hold high government positions. They championed radical liberalism and popular sovereignty. Their movement benefited from wide popular support cross-racially.⁷⁰

Legislative deliberations on the 1830 criminal code revealed the fault lines between the liberal jurisprudence of the era and the reformist ideals of punishment to discipline enslaved lawbreakers. Legislators were all very aware that thousands of enslaved Africans entered the country's ports. The majority of the enslaved were canalized to the coffee fields of the Paraíba Valley, but were perceived as an internal inimical force within the nation. In 1830 when the code was promulgated an estimated 38,000 slaves entered Brazil through its southeastern ports, foremost through Rio's harbor, and more than 7,000 arrived in Salvador Bahia.⁷¹ Enslaved workers and free people of color were, therefore, very visible in the Brazilian capital and coastal cities, where legislators deliberated the criminal code and decided on budgets to reform the country's dungeons. The constitution called for "clean and secure prisons" as well as *casas de correções* to reform vagrants, beggars, and convicts. Article 179 established the legal basis for building penitentiaries in important provinces and elaborating the criminal code.⁷² Parliamentary debates on the criminal code revealed what was at stake as postcolonial legislators of pro- and antislavery leanings sought to devise stringent punishment for the enslaved and the free poor.

⁶⁹ Youssef, *Imprensa e escravidão*, 97–120.

⁷⁰ These *exaltados* newspapers began to be published in 1829 in the buildup of opposition to Pedro's leadership; see Youssef, *Imprensa e escravidão*, 124; Basile, "Sociabilidade e ação política," 349–383; Marcelo Marcello Otávio Neri de Campos Basile, "O império em construção: projetos de Brasil e ação política na corte regencial" (PhD dissertation, UFRJ, 2004); Morel, *Transformações*, 61–147; Dantas and Câmara, *Revoltas, motins, e revoluções*.

⁷¹ Silva, *Atlantic Slave Trade*.

⁷² "Constituição política do Império do Brasil (25 de Março 1824)," article 179 in Brasil, *Coleção de leis do Império do Brasil*, 1824, p. 7, vol. 1; Morães, *Prisões e instituições penitenciárias*.

There were two criminal code projects presented to parliament, one written by José Pereira Clemente, and a second written by the *moderado* Bernardo Pereira de Vasconcelos. Both authors were linked by family ties to the slaveholding elites of the Paraíba Valley. The Vasconcelos draft of the criminal code was hotly debated in parliament, especially for its adoption of the death penalty.⁷³ The draft recommended the sentence of “prison with labor” for crimes ranging from vagrancy to homicide, and “simple imprisonment” or incarceration without the requirement to work, and finally *galé* (the punishment to public works with chains). It defined crimes as activities defined as such by the law and was overall influenced by the liberal jurisprudence of the era. It prescribed the sentence of “prison with labor,” and recommended the building of penitentiaries. At the same time, the Vasconcelos draft maintained the death penalty as a punishment for homicide and other crimes.⁷⁴ The death penalty was challenged by lawmakers who saw the sentence as antithetical to Christian ethics and anticonstitutional. There were two factions on the issue. José Pereira de Vasconcelos, who represented Minas Gerais province, defended the death penalty, while others opposed the sentence.

Opponents of the death penalty, such as the Afro-Brazilian jurist Antonio Pereira Rebouças, the editor of the *Aurora Fluminense* Evaristo Ferreira da Veiga, Ernesto Ferreira França and his father Antonio Ferreira França, as well as Martim Francisco Ribeiro de Andrada, argued that the sentence was unconstitutional, was opposed to natural law, and was ineffective at deterring slaves from committing serious crimes. They contended that capital punishment was in fact an escape from slavery for slaves whose life was already miserable.⁷⁵

Supporters of the death penalty referred to slave violence and rebellion against slaveholders as the basis for their support for the death penalty and

⁷³ Needell, *Party of Order*, 24–30; Slemian, “Nação independente,” 175–206; Slemian, *Sob o império das leis*; Flory, *Judge and Jury*; Costa, “Codificação e formação.”

⁷⁴ On the British penal reform movement and changes in prison architecture, see Evans, *The Fabrication of Virtue*, 1–9, 47–48, 119–131; John Howard, *The State of the Prisons in England and Wales: With Preliminary Observations, and an Account of Some Foreign Prisons and Hospitals* (London: William Eyres, 1777); Ignatieff, *Just Measure of Pain*, 47–79; Beattie, *Crime and the Courts*, 560–567. The “congregate” or Auburn system was put into practice at the Auburn Correctional Facility, built between 1819 and 1823; see Rothman, *Discovery of the Asylum*, 79–82.

⁷⁵ Brasil, *Annaes do Parlamento Brasileiro*, vol. I [1830] (Rio de Janeiro: Typographia Nacional, 1878). On Rebouças’ significance in Brazilian jurisprudence, see Keila Grinberg, *O fiador dos brasileiros: cidadania, escravidão e direito civil no tempo de Antonio Pereira Rebouças* (Rio de Janeiro, Civilização Brasileira, 2002).

the sentence of hard labor or *galé* as deterrence for slave crimes. Deputy Albuquerque e Cavalcante advocated adopting the death penalty and *galé* as punishment in the 1830 criminal code and argued that Brazil differed from Europe because of the existence of slavery within its borders and its largely uncivilized population. Supporters of the death penalty contended that only the threat of execution or hard labor in public works served as potent deterrents against slave resistance and rebellion. One deputy supported the abolition of the death penalty for political crimes, but argued that it needed to apply for homicides and to “regulate slavery as it was the only penalty that could control it.”⁷⁶ Another deputy suggested amending the preliminary text of the code to include the death penalty for homicide and for the leaders of insurrections, while another proposed a separate penal code for slaves. The first proposal won most of the votes and subsequent discussions on the death penalty and *galé* divided supporters and opponents of the two sentences. Deputies who supported the death penalty and the sentence of *galé* argued that they were necessary to punish not just slaves but also the racially heterogenous free poor.

Bernardo Pereira de Vasconcelos, who defended his inclusion of the death penalty in the draft of the criminal code, argued that slaves were not the only problematic group in Brazil. Vasconcellos championed the interests of the powerful slaveholding clan of the coffee-producing southeast provinces.⁷⁷ He asserted that in addition to slaves who posed a constant threat of rebellion, Brazil possessed more than three million free people who were all “capable of death,” and that the free population represented a pressing challenge to social order. The *moderado* lawmaker claimed that experience had shown that whenever the government enforced the death penalty in colonial times, homicides and other violent crimes diminished. Capital punishment, he contended, was necessary to control not just slaves but also a “class of individuals whose habits were very much like those of slaves.” Brazil required strong and harsh laws to restrict not only the violence of slaves, but also disorder from the free poor. Vasconcelos argued that port cities in Brazil were particularly vulnerable to crimes from the accumulation of “vicious foreign elements that circulated through them.”⁷⁸

⁷⁶ See Brasil, *Annaes do Parlamento*, 1830, session of September 15, 1830, 489–515. Controversies about the death penalty and slaves would continue after the passage of the code; see Ribeiro, *No meio das galinhas*; Brown, “A Black Mark on Our Legislation,” 95–121; Pirola, *Escravos e rebeldes*;

⁷⁷ Needell, *Party of Order*, 16–29.

⁷⁸ Brasil, *Annaes do Parlamento*, session of September 15, 1830, 513–514.

The discussions about the death penalty addressed the necessity to build penitentiaries in Brazil to effect the reform of prisoners. Supporters of the death penalty contended that Brazil did not have prisons to discipline its criminal population and that incarceration would be an escape from slavery for the enslaved. Opponents of capital punishment called for prison constructions to reform the criminal population, though they agreed that the solution could not be applied to slave convicts. Francisco Ribeiro de Andrada, for example, asserted that capital punishment was a contradiction in civilized nations and that modern societies had shown the utility of reforming criminals to combat crimes. He emphasized the significance of the prison as a site to effect this transformation, just as psychiatrists had shown the significance of the asylum to reform the insane. The penitentiary, Francisco Ribeiro de Andrada asserted, was the site for curing criminals through solitary confinement, silence, a rigorous work regime, and the enforcement of Christian morality. He contended that the separate system of solitary confinement and labor implemented in Philadelphia had shown the benefits of imprisonment instead of the death penalty. Antonio Rebouças agreed with Francisco Ribeiro de Andrada and critiqued supporters of the death penalty for deploying Brazil's lack of modern prisons to justify including the punishment in the criminal code. He suggested that the government build modern prisons as the solution against crimes by the free poor and slaves, rather than enforcing capital punishment in a liberal monarchy.⁷⁹

Proponents of the death penalty counterargued that incarceration had little effect on slave criminality, as slaves were already deprived of freedom. Ribeiro de Andrada responded that on the contrary, simple imprisonment – that is, incarceration without the requirement to work – would be an effective punishment for enslaved convicts, as it was well known that “men who were habituated to work died from being deprived of it.”⁸⁰ Both Ribeiro de Andrada and Rebouças referred to penitentiaries and correction houses – *casas de correções* – in their discussions to highlight the cruelty of the death penalty. They compared it to *galé*, the punishment to public works in chains that had deep roots in Brazil's colonial past and the Portuguese punitive regime. Legislators who opposed capital punishment were also against *galé*, which they viewed as an ineffectual sentence. Rebouças argued that the sentence did not reform convicts and served as schools for criminals. He declared that the punishment of hard

⁷⁹ Brasil, *Annaes do Parlamento*, 1830, 507.

⁸⁰ Brasil, *Annaes do Parlamento*, 1830, 498–508.

labor in fetters was not as terrible as the death penalty, but called for its elimination because it caused the physical and moral degeneration of the convict.⁸¹

The promulgated version of the criminal code created parallel punishments for the enslaved and the free. The law established “prison with labor” as the most common punishment for crimes ranging from vagrancy, mendicancy, homicide, theft, and burglary, among others. The criminal code maintained the old-regime penalty of *galé* and the death penalty primarily for enslaved convicts, but also for legally free criminals who were guilty of sedition and rebellion, while reserving “prison with labor” largely for convicts of free status. The first two penalties embodied parallel systems of punishment rooted in the old regime and deploying corporal punishment – chains and hard labor in public works – to correct and humiliate the convict, while “prison with labor” focused on reforming the prisoner into a law-abiding citizen through seclusion and labor in a modern prison. *Galé* was a sentence applied primarily to enslaved prisoners, while prison with labor aimed toward disciplining Brazil’s free poor. The disciplining objective encapsulated in the sentence of “prison with labor,” however, could not be implemented without modernizing Brazil’s prisons and building penitentiaries. The Sociedade Defensora became prominent during the crisis that culminated in Pedro I’s abdication in April 1831. The organization, which assembled in its ranks a disparate group of lawmakers who were identified as *moderados*, placed itself at the vanguard of modernizing Brazil through building modern penitentiaries for the maintenance of public order.⁸²

THE SOCIEDADE DEFENSORA, PUBLIC ORDER, AND DISORDER IN RIO DE JANEIRO

A coalition between radical liberals – *exaltados* – and moderates – *moderados* – in parliament and in the press led to the emperor’s abdication in April 1831.⁸³ Pedro I left behind his 5-year-old son, Pedro II, under the

⁸¹ Brasil, *Annaes do Parlamento*, 1830, 507–508.

⁸² On political conflicts in the first empire, see Barman, *The Forging of a Nation*, 97–129; Costa, *Brazilian Empire*, 57–62; Armitage and Southey, *History of Brazil*; Hamilton Leal, *História das instituições políticas do Brasil* (Rio de Janeiro: Ministério da Justiça, 1962).

⁸³ Youssef, *Imprensa e escravidão*, 123–126. Needell, *Party of Order*; Basile, “Sociabilidade e ação política,” 349–383; Augustin Wernet, *Sociedades Políticas (1831–1832)* (São Paulo: Instituto Nacional do Livro, 1978), 1–9; Morel, *Transformações*, 61–147.

tutelage of selected regents. Following Pedro's abdication, a third political faction identified as *caramurus* gained prominence and demanded the return of the emperor to Brazil. The abdication crisis gave rise to unprecedented political activism, which was expressed through the formation of political organizations and factions and an increase in the number of newspapers published in Rio de Janeiro. The crisis played out in the streets and heightened elite anxieties about public order and disorder from the city's enslaved and free population. On March 13, 1831, during the so-called *Noite das Garrafadas*, the "Night of the Bottle Blows," radical liberals and Portuguese supporters of Pedro I confronted one another on Rio's streets with little interference from the police. Fearing that Rio would be attacked from within and without, especially with the entry of armed men and soldiers into the capital from other provinces, the minister of justice took provisions to uphold security in the city and to prevent anyone from entering the capital with weapons.⁸⁴ He ordered the police to close the roads and avenues leading to the Campo da Acclamação, a central square in the capital where the populace often assembled to acclaim the emperor. He directed the police and the navy to patrol Rio's port and coastline to prevent factions from entering the city by sea.⁸⁵ Elements of the working class, free blacks, and mulattos participated and interjected their own expectations about race, nation, and citizenship into the unstable political climate. Rio was the center of the political crisis and the theater of liberal policies to enforce the constitutional monarchy in the aftermath of Pedro I's abdication. But the immediate postcolonial period also witnessed regional movements that mirrored liberal dissent in Rio or challenged the imperial capital's leadership. These sociopolitical movements and rebellions – for example the Cabanagem in the north and the Sabinada in Bahia – were often cross-racially organized and chafed at enduring social hierarchies between masters and slaves, whites, free people of color, and the native population. None of these movements, however, preached the end of slavery and some only marginally criticized the slave trade. The central government utilized violence persistently to quell these regional eruptions of revolution that could portend an imagined slave rebellion.

⁸⁴ Brasil, *Relatório do ministério da justiça do anno 1833* (Rio de Janeiro: Typographia nacional, 1834), 2–5, hereafter *Relatório* with the respective year; Holloway, *Policing Rio de Janeiro*, 65–69.

⁸⁵ For a discussion of the opposition against Pedro during the celebration of national festivities, see Kraay, *Days of National Festivity*, 53–73.

Authorities' reactions against political dissent were forever shaped by the memory of the slave revolution in St. Domingue.⁸⁶

The Sociedade Defensora rose to prominence as the most influential political faction in the aftermath of Pedro I's abdication. Created in the southern province of São Paulo in March 1831, the organization spread through the rest of Brazil to influence politics at the local, provincial, and imperial levels. It augured a liberal period in Brazilian politics that lasted until 1837. Adherents to the *moderados* faction founded a branch of the Sociedade Defensora in Rio by May 1831. The association assembled among its ranks both supporters and opponents of the slave trade. Both groups agreed that Brazil required a penal system to reflect its reality as a slave society and to restore public order.⁸⁷ The association succeeded in preserving Brazil's constitutional monarchy under the pressures from radical liberals – *exaltados* – who advocated republicanism, and the *car-amurus* who championed the restoration of the monarchy.⁸⁸ The membership file of the Sociedade Defensora consisted of a list of prominent Brazilian politicians, doctors, lawyers, regents to the young emperor, public functionaries, officers of the army, and cabinet members. Many of the legislators who debated and wrote the 1830 criminal code became its members. They were the Brazilian political elite for the most part and included justice minister and regent Antonio Feijó, Bernardo Pereira de Vasconcelos, the journalist Evaristo da Veiga, Martim Francisco Ribeiro de Andrada who wrote the 1823 draft of the constitution, ministers of justice Honório Hermeto Carneiro Leão and Aureliano de Souza e Oliveira Coutinho, Eusébio de Queiroz Mattoso da Camara who became Rio's police chief by 1834, and Joaquim José Rodrigues Torres of the Navy, among others. Of the Brazilian Chamber of Deputies, 38 percent were members of the Sociedade Defensora's Rio branch during the 1830–1833 period. A contemporary historian argued that the Sociedade Defensora's

⁸⁶ Kraay, *Days of National Festivity*, 65; Ribeiro, "A liberdade em construção"; Dantas and Câmara, *Revolutas, motins, e revoluções*;

⁸⁷ Sociedade Defensora, *Estatutos da Sociedade Defensora da Liberdade e Independencia Nacional* (Rio de Janeiro: Typographia Nacional, 1831), published in *O Republico*, April 28, 1831, no. 59, 287 and *O Republico*, June 6, 1831, no. 73, 339. The organization was initially known as the Sociedade dos Defensores da Liberdade e da Independencia Nacional. It published new statutes in 1832, see *O Independente*, December 1, 1832, no. 132; on the revised statutes, see Basile, "Sociabilidade e ação política," 376.

⁸⁸ See Basile, "Sociabilidade e ação política," 350; José Ignácio de Abreu e Lima, *Compendio da história do Brasil* (Rio de Janeiro: E. e H. Laemmert, 1843), 82–114. A collection of sources on the Sociedade Defensora's branch in São Paulo was published in Wernet, *Sociedades Políticas*; see Leal, *História*, 291.

prominent representation in the Brazilian parliament allowed it to govern Brazil for four years. The association functioned as “a state within the state” because of its unique influence at all levels of government and particularly in the parliament and the regency’s cabinet of ministers.⁸⁹

A provisional statute of the Sociedade Defensora published in 1831 declared that “the organization would assist the action of public authorities for the sake of order and authority.”⁹⁰ Members of the Sociedade Defensora in parliament oversaw the passing of the November 7, 1831 law that banned the slave trade and declared free all slaves who disembarked in Brazil thereafter. The law punished slave traffickers with incarceration for three to nine years and fined them the cost of re-exporting the emancipated Africans back to their homeland.⁹¹ The official 1832 statute of the Sociedade Defensora likewise prohibited individuals who were involved in the “abominable commerce” that “introduced blacks to Brazil” from becoming members of the organization. Slavery, the 1832 statute asserted, was “contrary to the laws and interests of Brazilian society.”⁹² Significantly, the statute included the “improvement of prison conditions” and the establishment of “their penitentiary status” as concrete objectives to achieve the restoration of public order in the Brazilian capital.⁹³ Between 1831 and 1833, the Sociedade Defensora’s newspapers – notably the *Aurora Fluminense* and *O Homen e a America* – published extensively about the necessity for prison reforms. The Sociedade organized a fundraising campaign to finance the building of the penitentiary in Rio. In October 1833, the organization secured

⁸⁹ Abreu e Lima, *Compendio*, 88; also cited in Wernet, *Sociedades Políticas*, 9. Members included justice ministers Diego Antonio Feijó, Aureliano de Sousa e Oliveira Coutinho, and Antonio Paulino Limpo de Abreu; and ministers Honório Hermeto Carneiro Leão and Bernardo Pereira de Vasconcelos (1837–1838) who joined the conservatives by 1837. Eusébio de Queiroz da Camara, who served as Rio’s police chief from 1833 to 1844 and justice minister from 1848 to 1852, also paid dues to the organization; Basile, “Sociabilidade e ação política,” 353–357. On the liberal movement after independence and the conservative party see Needell, *Party of Order*, 38–50.

⁹⁰ The 1831 statutes were published in *O Repúblico*, April 28, 1831, no. 59, 287, and *O Repúblico*, June 6, 1831, no. 73, 339.

⁹¹ The 1831 law did not apply to exceptions for slave mariners who were owned by foreign nationals traveling to Brazil, available at: www2.camara.leg.br/legin/fed/lei_sn/1824-1899/lei-37659-7-novembro-1831-564776-publicacaooriginal-88704-pl.html; see article 179 of the 1830 Criminal Code on punishment of slave traffickers, www.planalto.gov.br/ccivil_03/leis/lim/LIM-16-12-1830.htm.

⁹² Sociedade Defensora, *Estatutos da Sociedade*.

⁹³ Sociedade Defensora, *Estatutos da Sociedade*, 3–4; on the revised 1832 statutes see *O Independente*, December 1, 1832, no. 132; see also Basile, “Sociabilidade e ação política,” 376.

government approval to build a “correction house” – *casa de correção* – in Rio. A few months before the *Maria da Gloria* sailed into Rio de Janeiro’s harbor, the Sociedade Defensora purchased a farm in Catumby, a rustic neighborhood just outside Rio’s colonial center, to build Latin America’s first penitentiary.⁹⁴ The entrance of the slave vessel into Rio’s Guanabara Bay corresponded with an order to transfer sixty convicts from a prison on the harbor to Catumby to work on the construction of the Casa de Correção.⁹⁵

The Sociedade Defensora’s preoccupation with upholding public order reflected the regency’s concern about controlling the criminality of Rio’s slaves and the free poor, which reached new heights in 1831 in the aftermath of Pedro I’s abdication. To stem the tide of disorder, parliament swiftly approved the law of June 6, 1831, which gave the government extensive power to define and maintain public order. The law punished violators of article 285 in the criminal code with three to nine months of imprisonment. The article prohibited the assembly of three or more people suspected of the intent to commit a crime.⁹⁶ The law banned night assembly of five or more people on the streets, public squares, and highways, and established a prison term of one to three months for violators. The regulation made imprisonment the punishment for petty violations such as illicit assembly, which the criminal code had previously penalized with a fine of 200 *milréis*. It transformed Rio de Janeiro into a city of suspects because it empowered the justice of the peace to maintain surveillance on the population, particularly slaves and free people of color.⁹⁷ The 1831 law restricted some of the liberal protections that the 1824 constitution and the 1830 criminal code had established. It eliminated the right to post bail for prisoners caught in the act of committing common crimes. The law authorized the justices of the peace to act as both police and judge by giving them the power to indict and pronounce sentences for petty crimes and infractions against municipal codes of conducts.

In an analysis of arrest records from May to June 17, 1831, historian Thomas Holloway documented that violent crimes and property-related infractions were not as significant as proponents of the June 1831 law claimed. Most of the people whom the police arrested during this period committed victimless public order offenses, such as disturbing the peace

⁹⁴ Brasil, *Relatório*, 1833, 18–19; see *Correio Oficial*, July 28, 1833 on the purchase of the farm.

⁹⁵ Brasil, *Relatório*, 1833, 18–19.

⁹⁶ Brasil, *Coleção de leis do Império do Brasil*, 1831, vol. 1: 1.

⁹⁷ See Holloway, *Policing Rio de Janeiro*, 65–80; Algranti, “Slave Crimes,” 27–48.

or insulting a person of authority. In addition, the majority of those accused of public order offenses were enslaved people who circulated through the city's streets. The findings, he argued, showed that the police focused on curbing activities that challenged the Brazilian social hierarchy, which rested on the domination and subordination of the enslaved population and the free poor.⁹⁸ The Sociedade Defensora's focus on public tranquility and its demand to reform Brazil's prisons expressed the liberal elite's anxiety that political instability could unravel the social order and lead to slave rebellion and insurrections.

The law of June 6, 1831 had profound implications for the government's ability to find prisons to confine lawbreakers and criminals in Rio. Before the law, Rio's two civil prisons, the Calabouço and the Aljube, were notoriously overcrowded. The June 1831 law promised to worsen the prison crisis by establishing imprisonment as a sentence for common crimes instead of the fines of the 1830 criminal code. Minister Feijó addressed this crisis when he reported in 1831 that prisoners' efforts to break out of the jails had increased. He argued that these attacks on prisons throughout the empire increased because detainees knew that prison escape did not constitute a crime and that there was little hindering their attempts.⁹⁹

By 1832, Justice Minister Carneiro Leão, a member of the Sociedade Defensora, asserted that the criminal code's sentence of prison with labor was unenforceable until Brazil had available penitentiaries. He argued that the criminal code suffered from serious defects since Brazil did not have a single establishment destined for the sentence.¹⁰⁰ Carneiro Leão proposed applying the prison with labor mandate through the construction of penal agricultural colonies, thereby bridging the gap between the colonial criminal justice system, where penal exile constituted an important mode of punishment, and the criminal code, where the imprisonment and reform of prisoners were a pillar of the disciplinary project. He viewed penal agricultural colonies as less expensive and more practical for the administration of justice. Penal exile and labor at an agricultural colony would achieve the disciplinary objective of "prison with labor" without building expensive penitentiaries.¹⁰¹

⁹⁸ See Holloway, *Policing Rio de Janeiro*, 67–77; Algranti, "Slave Crimes," 29–30, for the 1810–1821 period.

⁹⁹ Brasil, *Relatório*, 1831, 11.

¹⁰⁰ Brasil, *Relatório*, 1832, 29.

¹⁰¹ Brasil, *Relatório*, 1832, 31. Carneiro Leão's suggestion found its realization in the transformation of the island of Fernando de Noronha into a penal colony after 1833; see Beattie, *Punishment in Paradise*; Costa, "O caos ressurgira da ordem," 53–60.

Carneiro Leão's critique of the 1830 criminal code reflected ongoing discussions in the Sociedade Defensora about restoring public tranquility in the aftermath of the abdication crisis and the June 6 law. Using its influence in the government, the Sociedade Defensora succeeded in getting construction initiated on Rio de Janeiro's Casa de Correção in October 1833. The Sociedade Defensora's decision to build the Casa de Correção aimed to resolve the gap between the criminal code and the reality of penal practice in Brazil by building a penitentiary in the imperial capital. In October 1830 parliament had passed a law that called for the construction of *casas de correções* in each of the counties of the empire based on Jeremy Bentham's principles in matters of civil and penal legislation. Provincial governments would finance their respective *casa de correção*, but permitted any individual or private companies to invest in the building of penitentiaries.¹⁰² The 1830 law and the 1824 constitution, which called for "clean, secure, and well-organized prisons," provided the basis for the Sociedade Defensora's intervention to build the penitentiary in Rio in 1833. The organization envisioned the penitentiary as essential to Brazilian postcolonial nation building and progress. Official publications of the Sociedade Defensora argued that the Casa de Correção was a necessary institution to cultivate the love of work among Brazil's free poor, "who were given to idleness and immersed in vice and poverty." The Casa de Correção would transform these men "into industrious citizens of good habits."¹⁰³

The preponderance of African-born slaves in the population preoccupied law enforcement officials and the members of the Sociedade Defensora active in government. Police agents were constantly on the lookout for runaway slaves and would break up assemblies by the public fountains to squash the first wind of riots and other disturbances. The city's slaves were a continual threat to public order, especially because they were vital to Rio's economic function as an Atlantic port city. Authorities feared not only the threat of a slave rebellion, but more common everyday violations associated with a free circulating slave population in the Brazilian capital. The police oversaw the identification and arrest of

¹⁰² The law specified that private entities would receive a tenth of the income resulting from the productions of prison labor; see Brasil, *Annaes do Parlamento*, 1830, vol. II, Session of October 18, 1830, 610.

¹⁰³ See *O Homem e a America*, January 13, 1832, where it publicized its ideas to the larger public; the organization also published news of its activities in the official newspaper *Correio Official* between 1831 and 1838, and in the *Aurora Fluminense*, whose editor, Evaristo Ferreira da Veiga, was a deputy and the secretary of the Sociedade Defensora.

runaway slaves. Others were brought to the Calabouço by their enslavers to be flogged. Conscious of erecting the basis of liberal jurisprudence in matters of slave punishment, the government intervened to limit the flogging of slaves to fifty lashes a day at the Calabouço and to limit their custody to a month in the dungeon. Justice minister Feijó argued that “slaves were also men and the laws also applied to them.”¹⁰⁴ With this decision, the *moderado*-led government expanded the state’s punitive authority onto Brazil’s enslaved population, seeking to regulate planter sovereignty under state control.

Legislators, slaveowners, and the political elites argued that daily threats, disobedience, and insubordination coming from the popular masses and the city’s slaves could unravel the social and racial hierarchies of the slave economy. The presence of slave ships along Rio’s harbor heightened problems of security on land after the November 1831 prohibition of the traffic. The entry into Rio’s harbor of British navy ships and their prize crews were also cause for alarm, because they embodied antislavery as an imperial project and a threat to national sovereignty. In addition, enslaved Africans at times sought refuge aboard British navy ships in their attempt to claim freedom.¹⁰⁵ The quarantine of apprehended slavers in the harbor sought to stem the spread not only of infectious disease, but also of equally dangerous ideas about black freedom in a land of slavery.¹⁰⁶ Africans liberated from the traffic constituted an even greater threat to public security. In 1831, writing about public order in the Brazilian capital, Justice Minister Feijó qualified enslaved Africans brought by slavers through the illegal slave trade as contributing to the issues with beggars and vagrants in the city. He highlighted the problem that “gangs of thieves” posed to law enforcement in the Brazilian capital. They “infested the city and its surroundings.”¹⁰⁷ Feijó’s focus on gangs of thieves and slave thefts reflected his preoccupation that the victims of kidnappings in the city were new slaves. They were particularly vulnerable, he asserted, because they lived in a foreign land without the

¹⁰⁴ Brasil, *Relatório*, 1831, 10.

¹⁰⁵ Dale Graden and Paulo Cesar Oliveira de Jesus, “The Bella Miquelina Affair: The Transatlantic Slave Trade, British Suppression and One African’s Quest for Liberty in the Bay of all Saints, Salvador, Brazil in 1848,” *Atlantic Studies* 14, no. 2 (2017): 206–208; Nelson, “Slavery, Race, and Conspiracy,” 175–178.

¹⁰⁶ Dale Graden, *Disease, Resistance, and Lies: The Demise of the Transatlantic Slave Trade to Brazil and Cuba* (Baton Rouge: Louisiana State University Press, 2014), 41–70; Manuel Barcia, *Yellow Demon of Fever: Fighting Disease in the Nineteenth Century Transatlantic Slave Trade* (New Haven, CT: Yale University Press, 2020), 32–37.

¹⁰⁷ Brasil, *Relatório*, 1831, 5; Holloway, *Policing Rio de Janeiro*, 75–80.

protection of families and political authorities.¹⁰⁸ He worried that they would be “perpetually reduced ... to slavery” despite the abolition of the slave trade.¹⁰⁹ In 1832, Justice Minister Carneiro Leão highlighted a particular difficulty of policing the city’s slaves. African slaves were not just “property,” he claimed. “This property cannot be restrained,” he argued, because it “circulated through the streets.” Slaves were therefore particularly vulnerable to theft as living commodities that could participate in their dispossession, which potentially rendered them both victims and perpetrators of property crimes. Much of slave theft represented schemes by the enslaved to flee or change masters.¹¹⁰ By 1834, Justice Minister Manoel Alves Branco qualified liberated Africans as “an ever-dangerous population.”¹¹¹ Liberated Africans were particularly subversive after they had “become acculturated and circulating with the opinion of free men among slaves.”¹¹² The intense framing of slave crimes and the circulation of liberated Africans as a matter of public security reflected the resurgence of the traffic after it had become virtually extinct in 1831–1832.

By 1833–1834, the illegal slave trade was becoming a tolerated practice by supporters of the slave trade, who began to secede from the *moderados* faction to form the reactionary party that ascended in Brazilian politics after 1835. On the one hand there was Evaristo da Veiga, who represented a faction of the Sociedade Defensora who opposed the traffic and viewed its termination as essential to modernizing Brazil. On the other hand, prominent politicians like Bernardo Pereira de Vasconcelos who were related through family ties to the slaveholding elites of Rio de Janeiro province, owners of coffee plantations that depended on slave labor, began to defend the continuation of the slave trade as an illegal practice. Vasconcelos and others united with some of the members of the restorationist party to form a reactionary party after 1834 to enforce a strong centralized state, which led a centralized Brazilian state that facilitated the expansion of the illegal slave trade.¹¹³

¹⁰⁸ Feijó in Brasil, *Relatório*, 1831, 6.

¹⁰⁹ Feijó in Brasil, *Relatório*, 1831, 5; Jennifer Nelson, “Apprentices of Freedom: Atlantic Histories of the Africanos Livres in Mid Nineteenth-Century Rio de Janeiro,” *Itinerario* 39, special issue no. 2 (2015): 355–359.

¹¹⁰ Hermeto Carneiro Leão in Brasil, *Relatório*, 1832, 24; Marcus J. de Carvalho, “Quem furta mais e esconde: o roubo de escravos em Pernambuco, 1832–1855,” *Revista do Instituto Histórico e Geográfico Brasileiro* 150 no. 363 (April/June 1989): 317–344.

¹¹¹ Minister Manoel Alves Branco in Brasil, *Relatório*, 1834, 8.

¹¹² Brasil, *Relatório*, 1834, 8. On the number of Africans liberated by Brazilian authorities and the mixed commission, see Mamigonian, “To Be a Liberated African,” 282.

¹¹³ Needell, *Party of Order*, 48–60; Youssef, *Imprensa e escravidão*, 179–186; Illmar Rohlof de Mattos, *O Tempo Saquarema: A formação do Estado Imperial* (São Paulo: Hucitec, 1987).

THE SOCIEDADE DEFENSORA AND ENDING THE
“SHAMEFUL TRAFFICKING OF HUMAN FLESH”

The entry of the slave ship *Maria da Gloria* into Rio's harbor in November 1833 was significant for the Sociedade Defensora. The *Maria da Gloria* crystalized for the antislavery reformers of the Sociedade Defensora the problems that slavery and the slave trade posed to Brazilian modernity and territorial control after independence. When Robertson boarded and seized the *Maria da Gloria* in November 1833, he did so empowered by more than fifteen years of bilateral treaties among England, Portugal, and Brazil, which abolished the slave trade north of the equator.¹¹⁴ First, in 1810, Portugal and England signed a treaty of free commerce between their nations. In 1815, Portugal signed a second treaty with England that committed the empire to cooperate with England to gradually end the slave trade north of the equator. Most of the slave trade to Brazil, however, occurred in the South Atlantic during this period. In 1817, the two countries signed a third treaty that established a specific timeline for ending the traffic, organized a bilateral court at Rio to adjudicate the case of enslaved Africans rescued from slave ships, and authorized the British navy to seize Portuguese vessels engaged in the traffic. Despite its more effective language on prohibiting the slave trade, the 1817 decree allowed ships manned by Portuguese subjects to engage in the slave trade south of the equator, a distinction that had significant legal repercussions on the adjudication of apprehended slave vessels. The South Atlantic was precisely where most slaves were embarked on the African coast to be sold in the slave markets along the Brazilian coast between 1810 and 1817 (Figure 1.2). Through the 1817 treaty, Britain established mixed-commission courts in Africa and the Americas, notably in Sierra Leone, Havana, and Rio de Janeiro, to adjudicate slave ships caught in the illegal zone for slave trading. Following adjudication, if the court found a confiscated ship guilty of slave trafficking, the judges condemned the vessel, emancipated the enslaved Africans, sold the slave ship, and distributed the products of its sale among the crew that captured it.¹¹⁵

¹¹⁴ See Bethell, *Abolition of the Brazilian Slave Trade*; Conrad, *World of Sorrow*; Great Britain and Lewis Hertslet, *A Complete Collection of the Treaties and Conventions, and Reciprocal Regulations at Present Subsisting between Great Britain and Foreign Powers ... So Far as They Relate to Commerce and Navigation; and to the Repression and Abolition of the Slave Trade; and to the Privileges and Interests of the Subjects of the High Contracting Parties*, no. 31 (London, Her Majesty's Stationery Office, 1820), vol. 3, 33–37.

¹¹⁵ On the regulation of the mixed commission, see “Additional Convention for Preventing the Illicit Traffic in Slaves,” signed in London on July 28, 1817, in Great Britain

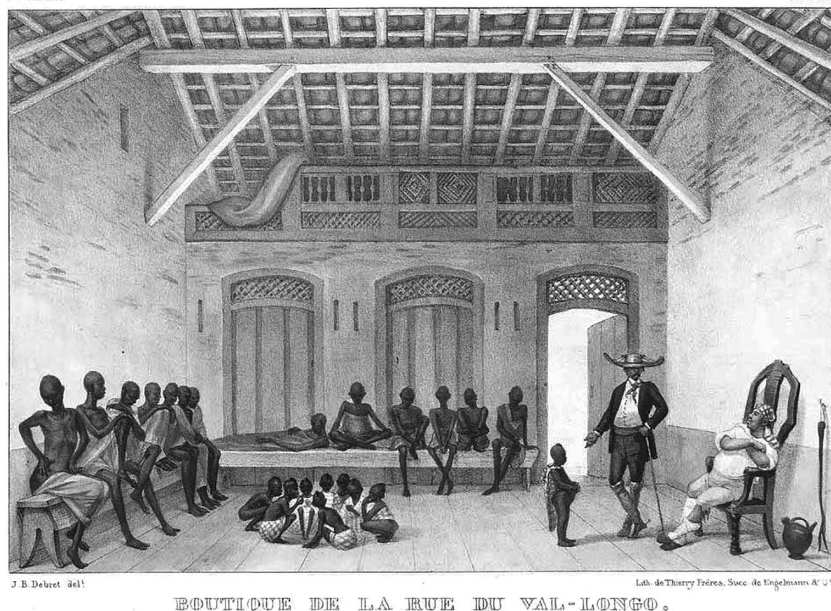


FIGURE 1.2 A view of the slave market in Rio de Janeiro before the 1831 law.
 Source: Thierry Frères. *Boutique de la Rue du Val-Longo*. Paris [França]:
 Firmin Didot Frères, 1835. 1 grav, litografia, col, 17,5 × 25,5. Acervo da
 Fundação da Biblioteca Nacional – Brasil.

Each court employed two judges, one British and the other representing the nation where the judicial body was established, to assess the legality of apprehended vessels. The courts also hired translators including African interpreters, a medical doctor, and a registrar to administer the process of adjudication and liberation. The courts were not vested with the authority to condemn the owners, the master, or the crew of a seized vessel, who were to be handed to their government for trial and punishment following the successful condemnation of an apprehended vessel. The goal was for the arbitration of a slaver to last no more than 20 days. However, at Rio's court, it took an average of 135 days between November 1833 and

and Hertslet, *A Complete Collection*, 81–185. The international mixed courts were the result of bilateral treaties between England and countries involved in the traffic, notably Portugal (July 28, 1817), Spain (September 23, 1817), the Netherlands (May 4, 1818), and Brazil (November 23, 1826). Mixed courts were established in Rio de Janeiro, Freetown (Sierra Leone), Luanda (Angola), Cape of Good Hope, Paramaibo (Surinam), Havana (Cuba), Kingston (Jamaica), and New York. On the British campaign to end the traffic to Brazil and the adjudication of slave vessels at Rio's court, see Bethell, *Abolition of the Brazilian Slave Trade*.

April 1838 for slaves to be declared “free and liberated” from the traffic following the opening of proceedings of the court in adjudication cases.¹¹⁶ Robertson, therefore, did not doubt the legality or the judiciousness of apprehending the *Maria da Gloria*. Only a few months earlier, in August 1833, Britain had expanded its opposition to the traffic by abolishing slavery in its colonies, albeit after a period of apprenticeship by the ex-slaves.

In the context of the legal reterritorialization of slavery and the traffic, Robertson did not reflect on the finer points of contradictions in the Anglo-Portuguese or Anglo-Brazilian treaties that could challenge the legality of the confiscation of the *Maria da Gloria*. The apprehension of the slaver would contribute to the British global campaign to end the slave trade, but would also result in rewards for him and the prize crew of the *Snake*. The intricacies of the law were superseded by the exigencies of the moment, British naval superiority, and the expectations of the *Snake*'s crew for “rewards for their exertions.”¹¹⁷ Robertson was aware that since the passage of the November 7, 1831 law, the warehouses that held and auctioned African slaves had disappeared from the streets around Rio's harbor. He was cognizant that slave traders had shifted their zones of action and delivered enslaved Africans to Brazil through less policed ports and hideaways south of the Brazilian capital.¹¹⁸ Two weeks earlier, on November 15, 1833, another British cruiser, the *Satellite*, had apprehended a brig sailing under the Portuguese flag, the *Paquete do Sul*, south of Rio de Janeiro, where the *Maria da Gloria* had been headed.¹¹⁹ Though the two-masted vessel did not have slaves onboard, the commander of the *Satellite* concluded that it had just unloaded its human cargo at one of the islands based on the presence of “tools specific to the traffic” onboard, such as “neck irons, shackles, fetters, and a large boiler,” which were used to cook for the slaves.¹²⁰

¹¹⁶ Bethell, *Abolition of the Brazilian Slave Trade*, 143; Bethell, “Mixed Commissions,” 79–93; Nelson, “Liberated Africans”; Mamigonian, *Africanos livres*.

¹¹⁷ On prize money and British abolitionism, see Padraic Scanlan, “The Rewards of Their Exertions: Prize Money and British Abolitionism in Sierra Leone, 1808–1823,” *Past and Present* no. 225 (2014): 113–142.

¹¹⁸ George Jackson to Lord Palmerston, FO84/138; Carvalho, “O desembarque nas praias,” 223–260.

¹¹⁹ www.slavevoyages.org, voyageID: 1326.

¹²⁰ The court sentenced the *Paquete do Sul* for illegal slave trading on January 14, 1834; “Cópia da sentença proferida pela comissão mixta brasileira e inglesa nos autos do Bergantim Paquete do Sul, capturado pelo navio de guerra de S. M. B. Satellite” in *Correio Official*, January 27, 1834, no. 20; Great Britain, Parliament, House of Commons, *Accounts and Papers of the House of Commons; Reports from Commissioners, Inspectors, and Others*, vol. 51 (London: George Edward Eyre and William Spottiswood, 1865), 133–138.

With the recent example of the *Paquete do Sul* in mind, Robertson and his crew brought the *Maria da Gloria* to Rio's port for adjudication before the mixed court. Brazilian naval authorities immediately quarantined the vessel as a slave ship while it awaited arbitration. The adjudication of a slave ship in a city that thrived on the labor of enslaved African men and women was a cause for alarm.¹²¹ Slave ships were seen as carriers of infectious diseases and germs that could spread to the hinterland and attack the freeborn population with yellow fever, smallpox, and cholera, among other fatal ailments.¹²² Apprehended slave vessels and the British prize crews that accompanied their entrance to Atlantic harbors where slavery was the basis of the economy were the embodiment of imperial encroachment on sovereignty and potent antislavery challenges to the local slave economy. In addition, adjudicated slave vessels were often the victims of attacks by traffickers, who kidnapped the enslaved Africans and smuggled them into slavery.¹²³ While the *Maria da Gloria* stood in Rio's harbor, land traffickers kidnapped ten slaves. The death toll of the slave ship also highlighted the epidemiological threat of the traffic. The mortality rate of the slaves onboard the *Maria da Gloria* vividly depicted the human cost of the traffic, which figured prominently in the Sociedade Defensora's publications on the "odious commerce."

The *Maria da Gloria* was one of forty-five slave ships on which the Anglo-Brazilian mixed-commission court adjudicated in Rio de Janeiro in 1821–1845. It was one of fifteen ships restored to their owner, the Portuguese national and Rio resident Anastácio José Ribeiro, on March 16, 1834 with 309 surviving Africans.¹²⁴ The controversial arbitration of the slave ship raised intense patriotic sentiments in Rio's liberal press, especially in the *Aurora Fluminense*, the newspaper that was the mouthpiece of the Sociedade Defensora.¹²⁵ The court decided in late December 1833

¹²¹ Graden and Oliveira, "The Bella Miquelina," 196–215; Nelson, "Slavery, Race, and Conspiracy," 174–195.

¹²² Barcia, *Yellow Demon of Fever*, 1–8; Graden, *Disease, Resistance*, 63–66; Sidney Chalhoub, *Cidade febril: Cortiços e epidemias na corte imperial* (São Paulo: Companhia das Letras, 1996).

¹²³ Nelson, "Apprentices of Freedom," 349–369; Bethell, "Mixed Commissions," 84.

¹²⁴ The ship was restored at the mixed court in Sierra Leone along with its human cargo, see Great Britain, *Accounts and Papers*, 35–46. Ribeiro owned various trading vessels, one of which capsized off Rio's coast during a storm; see *Correio Mercantil*, September 10, 1830, vol. 1, no. 18; and October 20, 1830. He continued to function as a businessman in Rio until as late as 1841; see *Diário do Rio de Janeiro*, April 18, 1837 and March 10, 1841, no. 55.

¹²⁵ José Murilo de Carvalho, "As Conferencias Radicais do Rio de Janeiro: Novo Espaço de debate," in Carvalho, *Nação e cidadania no Império: Novos horizontes* (Rio de

that it did not have jurisdiction to condemn the *Maria da Gloria* for slave trafficking because it was a Portuguese-owned ship. The Brazilian and British judges referred the case to the mixed-commission court in Sierra Leone, where it sailed on January 4, 1834.¹²⁶

Two weeks after the restoration of the *Maria da Gloria* by the Sierra Leone court, on April 9, 1834, the Brazilian government ordered Anasácio Ribeiro to “depart from Brazil in fifteen days.”¹²⁷ The *Aurora Fluminense* vigorously applauded the decision as one that demonstrated Brazilian sovereignty in the prohibition of the traffic. Signed by justice minister Aureliano de Souza e Oliveira Coutinho, an active member of the Sociedade Defensora, the edict emphasized Ribeiro’s Portuguese nationality to contrast it with the antislavery principles of Brazil’s constitutional monarchy. The order accused Ribeiro, a “foreigner,” of having delivered thousands of slaves along Rio’s coast and of having “violated Brazilian laws” against the traffic. The edict concluded that Ribeiro engaged in a “commerce that was harmful to the Empire” and “opposed to [Brazil’s] free institutions.”¹²⁸ The editors of the *Aurora Fluminense* reproduced the deportation mandate and highlighted Ribeiro’s Portuguese nationality as a threat to Brazilian sovereignty. According to the paper, the Portuguese national “abused Brazilian hospitality” and “utilized his capital and entrepreneurship” to introduce enslaved Africans to Brazil, a country that had declared independence from Portugal more than a decade earlier.¹²⁹ Despite their attribution of slave trading to Portuguese nationals, few officials could deny that the slave trade was on the ascent in Brazil by January 1834 when the *Maria da Gloria* sailed north of the equator to the mixed court at Sierra Leone.

Janeiro: *Civilização Brasileira*, 2007); Basile, “Sociabilidade e ação política,” 350; Leal, *História*, 291; Wernet, *Sociedades Políticas*.

¹²⁶ See the sentence of the *Maria da Gloria* on December 20, 1833, published in *Jornal do Comércio*, January 28, 1834, no. 21; Great Britain, *Accounts and Papers*, 127–128.

¹²⁷ A March 16, 1834 judgment restored the *Maria da Gloria* to Cordony. See document no. 34, “His Majesty’s Commissioners to Viscount Palmerston,” Sierra Leone, March 31, 1834, in Great Britain, *Accounts and Papers*, 32–45.

¹²⁸ Souza e Oliveira Coutinho, minister of justice, to Rio’s police chief, April 9, 1834, published in *Correio Oficial*, April 12, 1834, no. 81, and reproduced in *Aurora Fluminense*, April 18, 1834, no. 899, and *Sete d’Abril*, September 20, 1834, no. 181.

¹²⁹ *Aurora Fluminense*, April 18, 1834. The organization’s branch in Rio published its minutes in its official newspaper, *O Homen e a America: Jornal da Sociedade Defensora da Liberdade e Independencia Nacional*, published between 1831 and 1835, and the *Aurora Fluminense*, whose main editor, Evaristo Ferreira da Veiga, was the principal secretary of the Sociedade Defensora; its communications to the public can be found in the *Correio Oficial*; for a more extensive discussion of the organization’s actions in Rio, see Basile, “Sociabilidade e ação política,” 355–372.



MAP I.I Map of Brazil and the southern Atlantic World where the slave trade thrived in the nineteenth century.

Source: Annelieke Vries, Cartographic Studio, Netherlands; and the International Review of Social History.

On February 16, 1834, the Sociedade Defensora advertised in Rio's newspapers an essay contest on the abolition of the slave trade in Brazil. The publication of the contest in early 1834 was not a coincidence: it was a direct reaction to the controversial adjudication of the *Maria da Gloria* in Rio in late December 1833. The association promised a prize of four hundred *milréis* for the essay that best "demonstrated the odiousness of the traffic, refuted the sophistries which its apologists used to defend it" and "made known the harmful influence which the introduction of African slaves exercised upon [Brazilian] customs, civilization, and freedom."¹³⁰ Participants in the competition would elucidate how Brazil could remain economically prosperous without the continuing influx of slaves. The essays would evaluate various strategies to curtail slave labor in Brazil, including European immigration and the introduction of machinery in agriculture and mining. In an essay that promoted the 1834 contest, the Sociedade Defensora asserted that the "shameful trafficking of human flesh" was a "challenge to national progress, the development of Brazilian civilization, and the improvement of customs and liberty."¹³¹ The contest aimed to galvanize public opinion against the slave trade through the publication of pamphlets on the topic.

The Sociedade Defensora's double-pronged project to build a penitentiary in the Brazilian capital and to promote discussions on the abolition of the traffic were rooted in the debates about the problem that slavery posed to Brazilian postcolonial nationhood, which were discussed in the legislative debates leading to the promulgation of the 1824 constitution and the discussions on the country's 1830 criminal code. The *Maria da Gloria* left Rio for Sierra Leone on January 4, 1834, with 390 enslaved captives onboard. Twenty-three of the original slaves aboard the ship had died in Rio's harbor during the adjudication proceedings.¹³² Forty-five other slaves perished during the reverse middle passage to Sierra Leone, where the vessel arrived on February 19, 1834.¹³³ By the time the mixed

¹³⁰ *Correio Official*, February 19, 1834, vol. II, no. 40, 160. See Conrad, *World of Sorrow*, 93; Conrad incorrectly argued that the association publicized the competition in 1836 "in response to the increasing vocal support of the slave trade."

¹³¹ Sociedade Defensora da Liberdade e Independencia Nacional, "Requerimento da Sociedade Defensora no Rio de Janeiro contra o tráfico dos Africanos" in *Aurora Fluminense*, February 24, 1834.

¹³² Richard Seymour, *Memoir of Rear Admiral Sir Michael Seymour, Bart., K.C.B.* (New York: Andesite Press, 1878/2015), 115.

¹³³ "Declaration of William Robertson, Esquire of the Snake, on the Capture of the Barque Maria da Gloria" reported in Correspondence of George Jackson, Judge of the Mixed Commission Court at Rio, to Lord Palmerston, December 26, 1833 in FO84/138.

court in Sierra Leone restored the *Maria da Gloria* to its owner, twenty-six of its human cargo had succumbed to heat, exhaustion, the toll of confinement in a tight space, disease, and dehydration. Although there is no report of rebellion on board the vessel, it is likely that many of the enslaved chose death during their ordeal. The survivors hung onto life, however, and the Sierra Leone court restored 309 surviving slaves to Cordonis. The ship's captain gifted sixty-four of the enslaved Africans to officials in Sierra Leone because they would not survive the second voyage to America, and returned to Brazil with 245 slaves onboard.

A British corvette named *Perija* spotted the *Maria da Gloria* near Bahia province in Brazil's northeast, on May 11, 1834, with 230 slaves.¹³⁴ Captain Broom of the *Perija* brought the slave vessel to the Bahian authorities to attempt to liberate the slaves once again. Emancipation of the slaves aboard the *Maria da Gloria* would have only necessitated the application of the Brazilian November 7, 1831 law. Broom asserted in his letter to Admiral Seymour in Rio that the president of Bahia was "desirous of condemning" the vessel, but he was not hopeful that it would be sentenced, an indication that the powerful slave trade lobby would overpower the leader's authority and the law. Effectively, Bahian officials released the *Maria da Gloria*, and Cordonis once again recovered the ship's human cargo. Significantly, the captain general of Bahia (*capitão do porto*), a police authority, "dispatched a cruiser with the *Maria da Gloria*" to steer the vessel "as far as the extreme limit of his authority" and to prevent Cordonis from unloading the slaves "within his jurisdiction." Cordonis eventually landed 90 surviving slaves in Cabo Frio, a littoral municipality north of Rio de Janeiro.¹³⁵ The circulation of the slave vessel to and from the Atlantic and its ability to deliver the enslaved at some landing point along the Brazilian coast highlighted the weakness of the central government in policing the Brazilian territory.

The case of the *Maria da Gloria* illustrated the definite resurgence of the illegal slave trade to Brazil by 1834 and the problem that the continuous entry of African slaves posed to public security. The fear of the impending abolition of the traffic in 1826 and 1831 sent slave traders and Brazilian planters into a heightened demand for African slaves. The expansion of coffee plantations in the Paraíba Valley between Rio and São Paulo fueled the market for slaves and increased their prices. In 1826,

¹³⁴ Seymour, *Memoir*, 117–118.

¹³⁵ Cordonis managed to land ninety surviving slaves in Cabo Frio, north of Rio de Janeiro; see Seymour, *Memoir*, 118.

when Britain and Brazil ratified the convention to end the traffic, an estimated 40,000 slaves, 10,000 more than the previous year, disembarked at Rio de Janeiro's port, from where traffickers smuggled them to the coffee plantations of the hinterland. By 1829, nearly 53,000 slaves disembarked in the Brazilian capital. The number of slaves entering Rio's port dropped to short of 39,000 in 1830, on the eve of the deadline for the ending of the slave trade according to the 1826 convention.¹³⁶

When the November 7, 1831 law took effect, the volume of the traffic dropped precipitously in Rio and in all other Brazilian ports.¹³⁷ A little over 1,200 slaves disembarked on Rio's coastline in 1831, from nearly 39,000 slaves who disembarked in the city's harbor in 1830. The total number of slaves sold to Brazil in 1831 was 6,600 men, women, and children. However, by 1834, it was evident to both British and Brazilian authorities that the traffic had entered an aggressive illegal phase that escaped imperial control. The volume of human trafficking to Rio increased consistently to 5,000 in 1832, 11,200 in 1833, and more than 17,000 by 1834. The observation that the contraband slave trade was becoming more prominent occupied the reports of the Ministry of Justice between 1833 and 1835. In 1833, Justice Minister Aureliano de Sousa Oliveira, a prominent member of the Sociedade Defensora, reported that the Brazilian navy was actively policing Brazil's coast to capture slave vessels. He noted that slave traffickers often left the Brazilian coast for the African continent while claiming Montevideo in Uruguay as their destination.¹³⁸ Official reports from the Brazilian government acknowledged "receiving denunciations" from the public of ships leaving for the African coast. According to these reports, witnesses were unwilling to come forward to corroborate the information, and efforts to investigate these vessels failed because of fear of retaliation from traffickers and corrupt local judges.¹³⁹

These official reports also revealed that slave traffickers drained the capacity of the Brazilian navy to secure the national territory. On October 9, 1833, the president of São Paulo province, Rafael Tobias de Aguiar, informed the minister of the navy, Joaquim José Rodrigues Torres, that there were sightings of a slave vessel at Ilha do Abrigo, a small island

¹³⁶ Conrad, *World of Sorrow*, 77–100. The estimates on the volume of the slave trade come from www.slavevoyages.org/estimates/JRVoT1oi.

¹³⁷ On the initial enforcement of the law, see Chalhoub, "Illegal Enslavement," 88–115.

¹³⁸ Brasil, *Relatório*, 1833, 20–21; the government's records on the traffic are also extensively discussed in Conrad, *World of Sorrow*, 78–100.

¹³⁹ Brasil, *Relatório*, 1833, 21.

at the entrance to the town of Cananeia southeast of São Paulo city. The vessel disembarked and transferred a partial cargo of enslaved Africans to the towns of Paranagua and Curitiba in São Paulo's hinterland. Aguiar requested that the navy send a warship to patrol the coastline between the city of Campos, which lay to the north of Rio de Janeiro, and the port of Santos, in the southeast of São Paulo province.

Aguiar argued that sightings of other vessels by the populace suggested that the city had become an entry point for the contraband trade. Still in October 1833, authorities received news that another vessel "circled aimlessly" around the beach in the locality of Conceição town and Manduba Point with a cargo of slaves. The ship at times approached the coastline, where it raised the Portuguese flag while giving two shots of large-caliber pieces to alert the population to its location. Navy minister Rodrigues Torres responded to Aguiar's request by ordering the schooner *Fluminense*, which was in the port of Santos farther north, to cruise the southern coast to capture the slave vessel. However, the *Fluminense* had already left Santos and was sailing to Campos.¹⁴⁰ Even while requesting the navy's assistance to curb the traffic, Tobias Aguiar, a member of the Sociedade Defensora in São Paulo, doubted that the government could fully succeed in turning the tide of the illegal slave trade. Aguiar concluded that local authorities were powerless to restrict the traffic because of the extensive Brazilian coastline and the collusion of corrupt local judges, particularly police officers, and elements of the population with traffickers. Once slaves landed on the Brazilian coast, it was difficult to pursue the perpetrators in the vast hinterland and through the mountainous regions that extended from the shoreline. These episodes highlighted the permeability of the Brazilian territory and weakness of the national government to secure the coastline.

The *Maria da Gloria* also underscored how successful slave traffickers were at evading conviction by the mixed-commission courts in Rio and on the African coast. Cordonis and Ribeiro skillfully exploited the edges and contradictions of the antislavery treaties by claiming to be Portuguese and by asserting that British officials captured the *Maria da Gloria* in the South Atlantic where the traffic was legal. In Rio and Sierra Leone, the traffickers claimed that Robertson did not carry a copy of article four of the 1817 treaty aboard the *Snake*, a requirement of the convention to justify lawful confiscation of slave ships. Slave traders like Ribeiro and

¹⁴⁰ *Correio Official*, November 5, 1833.

Cordonis exploited the overlapping jurisdictions and uneven sovereignty between Brazil and England as well as the significance of the Atlantic Ocean as a contentious territory.

The case ultimately demonstrated the lack of decisive interventions by Brazilian authorities to impose the country's laws. Admiral Seymour, a British naval officer stationed in Rio, convincingly argued in December 1833 that Brazilian authorities could condemn the *Maria da Gloria* because its owners, regardless of their nationality or citizenship, blatantly violated local laws, notably the 1831 law.¹⁴¹ The law required the Brazilian government to negotiate with local authorities in Africa for asylum for the liberated Africans.¹⁴² At any point during the adjudication of the *Maria da Gloria* in Rio, Brazilian authorities could have intervened and subjected the vessel and its cargo to the 1831 law. They did not, as Seymour observed. The Brazilian judge at the mixed-commission court concurred with George Jackson, the British commissioner in Rio, to refer the vessel to Sierra Leone based on the 1817 Anglo-Portuguese convention.

A previous case of enslaved Africans rescued from the traffic in 1833 elucidates this question. In January 1833, the president of Pernambuco, Manoel Zeferino dos Santos, informed Justice Minister Honório Carneiro Leão, a member of the Sociedade Defensora linked to the Paraíba Valley planters through family ties, that a cargo of enslaved Africans had reached his territory and remained in custody while he awaited additional instruction on their reexportation to the African coast. Dos Santos requested a swift resolution from imperial authorities in Rio.¹⁴³ Carneiro Leão clarified that the regency (1831–1840) had not yet reached an agreement with African authorities on the slaves' reexportation.¹⁴⁴ He suggested returning the "now captured [Africans] back to the points from whence they came or to that place in Africa which may be most convenient." This very general guideline, which in effect relegated policing the traffic to regional authorities consistent with *moderados'* call for a decentralized monarchy, demonstrated the lack of imperial resolve to enforce the November 7 law by 1833. It also confirmed to George

¹⁴¹ See "His Majesty's Commissioners to Viscount Palmerston," Rio de Janeiro, December 18, 1833, in Great Britain, *Accounts and Papers*, 120–121.

¹⁴² See www2.camara.leg.br/legin/fed/lei_sn/1824-1899/lei-37659-7-novembro-1831-564776-publicacaooriginal-88704-pl.html.

¹⁴³ President of Pernambuco to the Minister of Justice in Rio de Janeiro, January 23, 1833, *Correio Official*, February 6, 1834.

¹⁴⁴ Dispatched from the Minister of Justice to the President of Pernambuco, dated February 12, 1833, *Correio Official*, February 16, 1833.

Jackson, the British commissioner in Rio, that the imperial government lacked the resources to implement the antislavery law.

The story of the liberated Africans in Pernambuco showed the effectiveness of slave traffickers in reenslaving liberated Africans, often with the collusion of petty officials, by disembarking those Africans in well-known spots of the illegal slave trade after 1831.¹⁴⁵ Pernambuco's president reported in April 1833 that slave traders kidnapped most of the emancipated Africans from their custody location. They "carried off by stealth" thirty slaves in the night from the "house in which they were deposited." The local custody official sold hundreds of other emancipated Africans to traffickers. Buyers went straight to the house of the "very person who brought the first lot, and whose name, residence, and property [were] well known." Pernambuco's governor concluded that this blatant corruption made it impossible for him to govern his territory. "If I am to govern with such ministers, I cannot govern at all," he concluded.¹⁴⁶ Commenting on the case, George Jackson, the British commissioner, observed that it demonstrated the "demoralization" that the continuation of the illegal traffic caused to Brazilian institutions.

The Pernambuco case and the events surrounding the adjudication of the *Maria da Gloria* indicate that imperial authorities were increasingly uncommitted to suppressing the slave trade. In reporting the incident and commenting on the 1831 law, Jackson worried about its overlap with the Anglo-Brazilian treaties. The 1831 law required Brazilian authorities to return liberated Africans to the African continent. Jackson criticized the exportation mandate of the 1831 law as impractical and in contradiction with the 1826 convention. The treaty, he clarified, bound Brazil to subject liberated Africans to fourteen years' apprenticeship before declaring them "fully free."

A conversation with the Brazilian minister of foreign affairs in 1833 confirmed to Jackson that the preoccupation of the constitutional monarchy was to "no longer allow the introduction of Africans into" the national territory.¹⁴⁷ Since the preoccupation of Brazilian authorities was to prevent the entry of African slaves, they readily embraced Ribeiro's argument that the *Maria da Gloria's* adjudication belonged to the jurisdiction of the Sierra Leone mixed court. Returning the slave ship to Africa also released

¹⁴⁵ Carvalho, "O desembarque nas praias," 223–260.

¹⁴⁶ President of Pernambuco to Minister of Justice, April 17, 1833 in FO84/138.

¹⁴⁷ Commissioner George Jackson, correspondence to Lord Palmerston, April 2, 1833, FO84/138.

the government from the responsibility of emancipating the enslaved and setting them loose in the population as free men and women. The referral of the ship to Sierra Leone in effect repatriated the Africans at no cost to the local government. When the *Maria da Gloria* circled the Brazilian coast again in May 1834 with its cargo of Africans, the local authority consistently pushed it toward the high sea. This quarantine policy attempted to seal off the Brazilian territory from the traffic and restricted it to international waters. Paradoxically, when Cordonis was finally able to land an estimated ninety surviving Africans, there is nothing to suggest that authorities prevented their reenslavement on land. In fact, illegal trafficking expanded after 1834 with the tacit support of Brazilian authorities, consistent with the rise of the reactionary party in Brazilian politics. The question was how to control the “foreign,” “enemy” population within Brazil and how to resist British antislavery pressure thereafter.¹⁴⁸

The ascent of reactionary lawmakers in the government led to the implementation of their policies on slave control, national sovereignty, and the protection of the slaveholding economy against subversive resistance from the enslaved and the free poor.¹⁴⁹ A series of slave rebellions and the expansion of the slave trade during this period heightened planter vigilance. In June 1835, the Brazilian parliament approved a law that condemned slaves’ violent acts against enslavers and their kin to the death penalty. The law reduced the rights of slave defendants who were accused of capital crimes against their masters and overseers as well as their families. It accelerated the judicial procedure to enact the death penalty. Although the death penalty was included in the 1830 criminal code, the 1835 law targeted the leaders of slave rebellions. Brazilian jurists, ambivalent about the broad reach of the law, referred to it as the “law of necessity.” The 1835 law was promulgated a few months after the January 1835 Malê rebellion in Bahia, which raised the alarm against the presence of enslaved Africans in the population.¹⁵⁰ The law signaled that

¹⁴⁸ On the reactionary party and the politics of slavery, see Parron, *A política da escravidão*; Needell, *Party of Order*; Mamigonian, *Africanos livres*; Youseff, *Imprensa e escravidão*; Mattos, *Tempo saquarema*; Chalhoub, *A força da escravidão*.

¹⁴⁹ Dantas and Câmara, *Revolutas, motins, e revoluções*.

¹⁵⁰ Réis, *Slave Rebellion in Brazil*; Isadora Moura Mota, “Sempre em luta pela liberdade: notas sobre a alfabetização geopolítica dos negros brasileiros,” *Brésil(s): sciences humaines et sociales* 3, no. 3 (2020); Dale Graden, “An Act even of Public Security: Slave Resistance, Social Tensions, and the End of the International Slave Trade to Brazil, 1835–1856,” *Hispanic American Historical Review* 76 no. 2 (1996): 249–282. On the death penalty law and slave resistance, see Pirola, *Escravos e rebeldes*; Ricardo

hanging and public executions would chastise the enslaved to protect the slave order in the empire. The death penalty was a wedge issue in the elaboration of the 1830 criminal code. The legal reforms culminating in the 1830 criminal code and the 1835 “law of necessity” can only be appreciated within the context of the rising tide of the slave trade despite its prohibition in 1831. The promulgation of the 1835 law reflected the tense resolution of protracted debates about capital punishment for the enslaved, but also the increasing influence of supporters of the expansion of slavery in Brazilian politics. Members of the reactionary party deeply tied to the slaveholding elite rose in Brazilian politics at all levels to transform the state to ensure the continuation of the illegal slave trade and the expansion of slavery in the constitutional monarchy.¹⁵¹

The rise of the reactionary party occasioned the dissolution of the Sociedade Defensora after 1835, when news reached Brazil that the former emperor, Pedro I, had succumbed to tuberculosis in Europe. Pedro’s passing eliminated the threat of the restoration, which was one of the factors that united the members of the association. The organization had politicians like Evaristo da Veiga who opposed the slave trade, but also other prominent politicians with family ties to the landowning elites in Rio de Janeiro province and the northeast of Brazil. For example, Bernardo Pereira de Vasconcellos, a member of the organization, was a scion of prominent mining and slaveholding families in Minas Gerais province, where a slave uprising erupted in 1833 that threatened the slave economy. He became a strong supporter of the slaveholders’ interests in parliament, where he defended the continuation of the slave trade and the death penalty for slave rebels.¹⁵² His counterpart was Diógo Antonio Feijó, the illegitimate son of a prominent family in the coffee province of São Paulo, and a liberal reformist and monarchist. Feijó supported restraining planter authority in matters of slave punishment to bring slave discipline under state control. He ascended to the position of minister of

Pirola, “A lei de 10 de junho de 1835: justiça, escravidão e pena de morte,” PhD thesis (Universidade Estadual de Campinas, 2005); Ribeiro, “No meio das galinhas”; Brown, “Black Mark on Our Legislation”; Marcos Ferreira de Andrada, “A pena de morte e a revolta dos escravos de Carrancas: A origem da lei nefanda” (10 de junho de 1835),” *Tempo* 23, no. 2 (2017): 264–289.

¹⁵¹ Parron, *A política da escravidão*; Youssef, *Imprensa e escravidão*; Mattos, *Tempo saquarema*; Needell, *Party of Order*.

¹⁵² On the ties of Brazilian politicians to slaveholders and landowning elites, see Needell, *Party of Order*; Youssef, *Imprensa e escravidão*, 179–186; Mattos, *Tempo saquarema*; Andrada, “A pena de morte,” 264–289.

justice and regent, where he pursued a political program that liberals tied to the plantation elite resisted.¹⁵³

Moderate members of the Sociedade Defensora who were tied directly or indirectly to the Brazilian slaveholding elite joined members of the restorationist *caramuru* faction to form the reactionary movement that became identified with the Party of Order in 1837. Members of the reactionary party ascended to important local and national posts throughout Brazil to support a politics that defended the expansion of slavery through illegal enslavement under a strong centralized state. Adherents of the Party of Order included Eusébio de Queiroz Mattoso da Camara, who was a member of the Sociedade Defensora and later served as Rio's police chief (1833–1844) and became the minister of justice (1848–1852). Other prominent members were Bernardo Pereira de Vasconcelos, also a member of the Sociedade Defensora but a strong defender of the slave trade and the death penalty. Vasconcellos led a conservative ministry in 1837 that oversaw the expansion of the slave trade and the deployment of social control institutions such as the police and the prison system into bodies that enforced slavery and planter control on the city's slaves.¹⁵⁴

The rise of the reactionary party was accompanied by an attack on the November 7, 1831 law that prohibited the slave trade, which they argued was unenforceable. In 1836, the reactionary lawmaker Felisberto Caldeira Brant Pontes, the Marquis of Barbacena, defended a bill through the Brazilian senate that would in effect abrogate the 1831 law. The Barbacena bill argued that Africans who had been enslaved and sold to Brazil after the November law were legitimate chattel once they were disembarked on Brazilian soil as opposed to on the high seas.¹⁵⁵ The senator contended that the continuation of the contraband trade showed that Brazilian authorities were unable to recover enslaved Africans once they had landed in Brazil, and that by law these captives belonged to whoever had purchased them. This interpretation of the law fit the equivocal politics of the Brazilian government in 1833 on the *Maria da Glória*, which was quarantined at sea by authorities in Pernambuco. Once the slave traffickers reached unguarded areas of the Brazilian coast, they

¹⁵³ Needell, *Party of Order*, 42–60.

¹⁵⁴ Chalhoub, "Illegal Enslavement," 90; Needell, *Party of Order*, 73–85.

¹⁵⁵ Barbacena's bill passed the senate, but was defeated in the chamber of deputies – see Conrad, *World of Sorrow*, 95–96. On the effects of the law in restricting the meaning of freedom for people of color in the Brazilian capital, see Chalhoub, "Illegal Enslavement."

were able to disembark the captives, who were sold as slaves to Brazilian slave owners.

As the reactionary position strengthened between 1835 and 1837, supporters of the slave trade resurrected and published an 1821 essay by Domingos Alves Moniz Barreto against abolishing the traffic.¹⁵⁶ Barreto advised Dom João, then the prince regent in Brazil, to resist British pressure to stop the slave trade in 1821 on the grounds that it would be detrimental to Brazil's economic development. Abolition of the traffic would deprive Brazilian agriculture of the "necessary hands to plow the land."¹⁵⁷ He concluded that Brazil could gradually curtail the slave trade in a manner that benefited the country rather than harmed its economic interests.¹⁵⁸ Once the traffic ended, Brazil could begin the slow process of dismantling slavery by facilitating self-purchase among the enslaved. Barreto recommended the promulgation of laws to facilitate slave emancipation and policies to promote their biological reproduction. The ex-slaves and freed children would become the basis for a free working class that would facilitate the country's transition to free labor. Barreto's proposals to form a free labor class encompassed the indigenous population and the free poor. Engendering a free working class necessitated a policy to pacify the native population and promote European immigration. He advocated enacting laws to control "idleness, the mother of all vices" among the poor. Defining idleness as "the plague of nations," Barreto claimed that it caused the destruction of families, which ultimately affected Brazil's ability to develop into a prosperous nation. The author identified beggars, vagrants, and drunkards as problem populations in need of discipline to transform them into workers.¹⁵⁹ Barreto suggested employing beggars and vagrants in the service of the navy arsenal where they could learn a trade.¹⁶⁰

Barreto proposed reforming Brazil's laws to accommodate the incoming transition to free labor that would result from the end of the traffic. He argued that *galé* convicts prematurely succumbed to the labor that

¹⁵⁶ Domingos Alves Branco Moniz Barreto, *Memória sobre a abolição do commercio da escravatura* (Rio de Janeiro: Typographia Imparcial de F. P. Brito, 1837); Barreto's *Memória* was originally submitted to Dom João in 1821 in protest against abolishing the slave trade. On the conservative resurgence in 1837, see Conrad, *World of Sorrow*, 92–96.

¹⁵⁷ Barreto, *Memória*, 9.

¹⁵⁸ *Ibid.*

¹⁵⁹ Barreto, *Memória*, 42.

¹⁶⁰ *Ibid.*

they performed in public works, shackled to one another while carrying heavy loads. He advocated redeploying the sentence to reform convicts rather than leading to their early death, which had no utilitarian social value. Barreto also proposed sending *galé* convicts to the navy and military arsenals for training as future artisans.¹⁶¹

The publication of Frederico Leopoldo Cezar Burlamaqui's *Memória sobre a escravidão* in 1837 reflected increasing tensions between anti- and proslavery voices in the Brazilian parliament regarding the slave trade. Burlamaqui was a member of the Sociedade Defensora and had written the *Memória* as a response to the 1834 contest on the abolition of the slave trade.¹⁶² Barreto's suggestions of social control policies to compel the poor to work in the aftermath of abolition appeared in Frederico Burlamaqui's antislavery pamphlet. Burlamaqui's *Memória* consisted of four major sections, which reflected the Sociedade Defensora's call for essays that demonstrated the odiousness of the slave trade, the harmful influence of the introduction of African slaves on Brazilian customs, and the benefits of labor produced by free men and women over slave labor. The fourth chapter discussed slavery's effects on Brazil's underdevelopment. Burlamaqui called for the slave trade's immediate prohibition followed by slavery's gradual abolition in Brazil. Among the solutions to stem the traffic, Burlamaqui suggested the introduction of European colonists to work as sharecroppers paid for by private interests, the use of machinery to simplify agriculture and mining, the improvement of slave treatment in Brazil, and finally the relocation of slavery from coastal cities to rural regions.

Burlamaqui placed the continuation of the traffic at the centrality of debates about whether Brazil would join the ranks of civilized nations or fall back into barbarism, a familiar trope used by the postindependence elite in Latin America to address the racial challenge of postcolonial nation building in their respective countries.¹⁶³ While Barreto

¹⁶¹ Ibid.

¹⁶² Burlamaqui included the guidelines for the competition in the book's preface. The Sociedade Defensora inserted a disclaimer in the preface announcing that the organization was "tacitly dissolved" before the completion of the text. The association attributed the ideas exposed in Burlamaqui's *Memória* to the author, while recognizing that they reflected the Sociedade Defensora's program on the topic. Burlamaqui, *Memória analítica*.

¹⁶³ Echoes of discourse in Latin America on progress; see Bradford E. Burn, *The Poverty of Progress: Latin America in the Nineteenth Century* (Berkeley: University of California Press, 1983); Domingo F. Sarmiento, *Facundo: Civilization and Barbarism* (Berkeley: University of California Press, 2003).

discussed Brazilian progress in mostly economic terms, Burlamaqui assessed Brazil's national development in primarily cultural terms. Writing when Brazil was a co-kingdom in the Portuguese empire and during rising slave demands to fuel coffee's expansion in the Paraíba Valley, Barreto suggested European immigration as a replacement for slave labor. He did not view European workers as culturally superior to African slaves.¹⁶⁴ In fact, Barreto's project of transition to free labor considered pacifying the native population and disciplining free people of color into a free laboring class.¹⁶⁵ Writing in the postcolonial period, Burlamaqui framed European immigration as a solution to Brazil's incoming labor problem and an exit from its descent into barbarism. The 1835 Muslim slave uprising in Bahia was a potent reminder to Burlamaqui of the danger that Africans represented in Brazil. The Bahian slave rebellion heightened existing fears of slave rebellion and disobedience throughout Brazil and especially in Rio, the port of entry for most slaves to the coffee plantations of the southeast. The African leadership of the insurgency – and its rank and file as only Africans joined the rebellion – led to increasing fear of African-born slaves as particularly dangerous and as internal enemies in Brazil.¹⁶⁶

Burlamaqui viewed slavery as a plague that hindered Brazilian development and bastardized its institutions. The traffic threatened Brazil's "existence as a nation" and slavery would leave "lasting ills" on the national character.¹⁶⁷ Burlamaqui considered slavery and the slave trade as "deadly diseases" from which Brazil had to cure itself. Transforming Brazilian mentality about the necessity of slave labor was pivotal to ending the traffic. The mere sight of poor Africans sold as slaves to Brazil, Burlamaqui asserted, should convince anyone that slavery was harmful because it "demoralized" the national character and customs.¹⁶⁸ Burlamaqui focused on the contradiction that slavery represented in post-colonial Brazil.¹⁶⁹ The country could not claim to be an independent nation founded on the rule of law while holding a large slave population within its borders. He emphasized that slavery was contrary to liberal

¹⁶⁴ The Portuguese crown immigrated to Brazil in 1808 and raised the former colony to the status of co-kingdom in 1815; see Schultz, *Tropical Versailles*.

¹⁶⁵ Miki, "Slave and Citizen," 1–22; Miki, *Frontiers of Citizenship*.

¹⁶⁶ Brown, "A Black Mark on Our Legislation," 95–121; Ribeiro, *No meio das galinhas*, 75–83.

¹⁶⁷ Burlamaqui, *Memória analítica*, preface, III–V.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*, VIII.

principles, an argument that he supported by quoting the Guatemalan Constitution, which prohibited slave traders from citizenship.¹⁷⁰ Slavery, Burlamaqui contended, was a legacy of Portuguese colonialism with which Brazil wrestled because it was the basis of economic production. In an allusion to the violence of the Haitian revolution and the 1835 Malê uprising, Burlamaqui compared slavery to a “volcano that continuously threatened” the country with destruction.

The presence of slaves in Brazil was antithetical to Christian morality, Burlamaqui asserted. He emphasized the impossibility of preaching Christian social and sexual moralism in a slave society. Slaves could not form families in obedience to Christian norms because their condition subjected them to the will of their owners, regardless of matrimonial or filial bonds. Christian morality subjected a woman to her husband’s authority. Since civil law reflected Christian influence, it made it impossible for a married slave woman to obey an order from her husband when it contradicted a directive from her owner. Burlamaqui contended that it was useless to state to a slave that “the word *liberty* was in contradiction with the existence of *slaves* or that religion was opposed to slavery” when he could clearly see that compassion, altruism, and brotherly love were hollow words in a country that was divided between the oppressors and the oppressed.¹⁷¹ Slavery stripped slaves of honor and dishonored enslaved women because female slaves did not have protection against their master’s sexual demands. The routine sexual exploitation of female slaves challenged the bounds of marriage, and caused widespread moral decay and violence from all members of free society. By showing how violence permeated relations between slaves and their owners and the sexual exploitation of enslaved women that resulted from their condition, Burlamaqui sought to demonstrate the necessity for a strong state to legislate relations between masters and slaves.

Burlamaqui expanded this argument by demonstrating how slavery “devalued all industrious professions.”¹⁷² Slavery prevented the development of an industrious spirit through which men could conquer nature and submit it to their will. If slavery favored slave owners, it did so by allowing them to control over other people, but it fundamentally stunted the development of the skills to domesticate nature. On the topic of industrialization in Brazil, Burlamaqui was an expert. He dedicated

¹⁷⁰ *Ibid.*, 9.

¹⁷¹ *Ibid.*, 7–9.

¹⁷² *Ibid.*, 19.

himself in later years to transferring the knowledge of agricultural mechanization to Brazil by publishing a book on the significance of technological innovation as a path to the transition to free labor.¹⁷³

Slavery's greatest casualty was the free working poor, who were neither masters nor slaves but who were bereft of opportunities to work and to provide for themselves because of its devaluation of labor. In Brazil, Burlamaqui argued, "a man ceases to work as soon as he acquired one or two slaves."¹⁷⁴ Even artisans used slave labor in their workshops rather than hiring free men or women. Free artisans could not flourish because they competed with slaveowners who utilized skilled slaves. The constrained labor market reduced the unskilled free poor to live a life of vagrancy and a final descent into criminality.¹⁷⁵ Skilled workers, on the other hand, only earned half of what a leased slave earned for the same work.

Slavery, Burlamaqui demonstrated, challenged Brazil's ability to guarantee freedom for its citizens because it limited access to honest means of subsistence.¹⁷⁶ Burlamaqui compared Brazil to the United States to exemplify what awaited the country if it did not rid itself of slaves, or at least restrict slavery to specific regions within the empire. He contrasted the continuation of slavery in the American south, which was poorer and less industrialized, with freedom in the industrialized north, where a thriving free working class manufactured goods purchased by southern slaveholders.¹⁷⁷ Since slavery expanded on the entire Brazilian territory, Burlamaqui argued, it limited the availability of work and social mobility for the free poor. The author implied that this was especially so in urban centers such as Rio where slave artisans were numerous.

Slavery also deprived Brazil of a viable population upon which to build a new postcolonial nation. Burlamaqui argued that it was notorious that poor nutrition, the sex imbalance ratio of the traffic, and planters' abuse of their slaves negatively affected the biological reproduction of slaves. Since maintaining the availability of slave labor depended on

¹⁷³ Frederico Leopoldo Cezar Burlamaqui, *Manual de máquinas, instrumentos e motores agrícolas* (Rio de Janeiro: Typographia de N. L. Vianna e Filhos, 1859). On Burlamaqui and the movement to modernize Brazilian agriculture, see Teresa Cribelli, *Industrial Forest and Mechanical Marvels: Modernization in Nineteenth Century Brazil* (Cambridge, UK: Cambridge University Press, 2016), 121–123.

¹⁷⁴ Burlamaqui, *Memória analítica*, 24.

¹⁷⁵ *Ibid.*, 20.

¹⁷⁶ *Ibid.*, 60.

¹⁷⁷ *Ibid.*, 63–65.

the traffic, Brazil's slave population was overwhelmingly African, thus constituting a foreign element in society. In a plantation of 400 or 500 slaves, he asserted, one could barely find 40–50 Brazilian-born slaves, and descendants of three to four generations.¹⁷⁸ The free poor also tended not to have big families, since they lived a life of scarcity. Brazil was severely underpopulated, and without a people there could not be a nation. Burlamaqui proposed improving slave conditions to produce a creole or Brazilian-born slave population. Legal reforms should submit slaveowners to state sovereignty and reduce planter violence against the enslaved. The law should chastise excessively violent slaveowners by depriving them of their slaves.¹⁷⁹ Burlamaqui's proposal included establishing a special police force to oversee the treatment of slaves by their masters.¹⁸⁰ The government should also intervene to change the nature of slavery in Brazil by redrawing the geography of slavery and restricting the utilization of slaves exclusively to agriculture, while limiting it in the service sector. This policy would "unclog the cities of this horde of miserable beings."¹⁸¹ His suggestion to restrict slavery to rural regions would ensure that coastal cities such as Rio supported a thriving wage-earning free urban working class. A politics of immigration then would encourage European workers to immigrate to Brazil as colonists to replace the slave population in the countryside.

Burlamaqui's argument that slavery challenged Brazilian postcolonial nationhood and progress closely echoed José Bonifácio de Andrada e Silva's dossier to the legislative assembly in 1823, which was published in 1825.¹⁸² José Bonifácio played an important role in the independence movement and was a member of the Sociedade Defensora, along with his brother Martim Francisco de Andrada e Silva. Bonifácio's project defined the indigenous people and the slave population as two challenges to liberal rule in postcolonial Brazil.¹⁸³ He opposed the slave trade because of its incompatibility with Brazilian progress. Slavery challenged Brazil's cultural and ethnic homogeneity.¹⁸⁴ Bonifácio had also already

¹⁷⁸ *Ibid.*, 69.

¹⁷⁹ *Ibid.*, 100–103.

¹⁸⁰ *Ibid.*, 100.

¹⁸¹ *Ibid.*, 105.

¹⁸² José Bonifácio de Andrada e Silva, *Representação à Assembléia Geral Constituinte e Legislativa do Império do Brasil sobre a escravatura* (Paris: Typographia de Firmin Didot, 1825); Costa, *Brazilian Empire*, 24–52.

¹⁸³ Costa, *Brazilian Empire*; Ribeiro, "Nação e cidadania," 38–63.

¹⁸⁴ Andrada e Silva, *Representação*, 43.

elaborated on Burlamaqui's main critique of slavery: that by preventing an appreciation of work and causing idleness and vagrancy among the poor, the institution stunted industrialization and corrupted the Brazilian character.¹⁸⁵ Even small-scale slaveowners, he stated, lived off the daily wage – *jornal* – that their leased slaves earned for their services throughout the city. The free population learned idleness, which was the cause of all vices and the gateway to criminality.¹⁸⁶ Bonifácio critiqued the suggestion that European immigration was essential to replace slave labor and argued that slavery would quickly corrupt foreign colonists upon arriving in Brazil. There, they would summarily acquire one or two slaves to work on their behalf and abandon themselves to vagrancy and slothfulness.¹⁸⁷

Bonifácio outlined a legal structure to protect slaves from excessive planter violence and mistreatment while implementing policies for gradual emancipation.¹⁸⁸ Only by ending the slave trade and slowly outlawing slavery could Brazil transform into a society with “useful, active, and productive citizens.”¹⁸⁹ Bonifácio's project hinged on creating legal provisions to protect slaves from violent slaveowners and to transform them into a free working class. Thus, it was up to the Brazilian state to make the slave population “worthy of freedom” – *dignos da liberdade*.¹⁹⁰ Transition to free labor depended on policies that compelled the ex-slaves to work through antivagrancy laws.¹⁹¹

Bonifácio's project encompassed twenty-two provisions for the transition from slavery to freedom. The most prominent requirement was a general slave registry to allow for greater government oversight of chattel slavery. These conditions included requiring slaveowners to sell their captives if the latter made an offer of purchase, and other terms to prevent the sale of sick slaves. Article 10 envisioned distributing land to free people of color to transform them into a working class attached to the land by ownership. It advised stripping slaveowners of the authority to flog their slaves by requiring them to procure a license from the police.

¹⁸⁵ Andrada e Silva, *Representação*, 18.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*, 20.

¹⁸⁸ *Ibid.*, 23.

¹⁸⁹ *Ibid.*

¹⁹⁰ Andrada e Silva, *Representação*, 23. The reference to a moral transformation of slaves into freedmen reappeared in abolitionist writings in the 1880s in the coverage of the 1883 riot at the city jail. See José do Patrocínio (writing under his pen name Proud-homme), “Dignos da Liberdade,” *Gazeta da Tarde*, December 18, 1883.

¹⁹¹ Andrada e Silva, *Representação*, 52.

Corporal punishment of slaves should occur under police supervision at the whipping post – *pelourinho* – in the nearest town to reduce planters' excessive use of force against their bondsmen.¹⁹²

How can we understand the extensive similarities in thought between the writings of proslavery and antislavery advocates on the social control of the free poor? Barreto, writing while Brazil was still under Portuguese dominion, was most concerned about the economic consequences of abolishing the slave trade. Burlamaqui and Bonifácio's writings, however, were primarily concerned with the sociolegal and cultural implications of a slave population in postcolonial Brazil. The authors' common preoccupation with the social control of the poor was a result of the *moderado* preoccupation with the problems of population, race, and nation among supporters and opponents of the traffic.¹⁹³ Jorge Henrique Rebello's *Memoire and Considerations on the Brazilian Population*, published in 1836, articulated this preoccupation clearly. Rebello's treatise wrestled with Brazil's challenge with underpopulation. Population was the cornerstone of nation building.

Rebello's treatise was neither in support of nor against the traffic. He was remarkably lucid about the paradox that the expansion of slavery in Brazil represented while it receded in the North Atlantic. The cultural and racial consequences of the forced immigration of Africans to Brazil preoccupied Rebello.¹⁹⁴ Brazil lacked a homogenous population because of the colonization process and the slave trade.¹⁹⁵ Rebello supported ending the traffic by enforcing the 1831 law, which, he argued, had worsened the inhumane condition of the traffic. Brazilian authorities, he asserted, had to evaluate whether the slave trade benefited population expansion against the economic needs of agriculture for a mass labor force. While slaves were essential to economic production, Rebello considered Africans as an undesirable addition to the Brazilian population because of their condition. He argued that "increases in individuals" did not produce

¹⁹² Andrada e Silva, *Representação*, 60.

¹⁹³ On liberalism and slavery in Brazil, see Flory, *Judge and Jury*, 17–30. On the alliance between liberals and conservatives, see Costa, *Brazilian Empire*, 53–69. On the political elites' ties to slaveholders, see Needell, *Party of Order*, 5–7.

¹⁹⁴ Jorge Henrique Rebello, *Memória e considerações sobre a população do Brasil*, *Revista do Instituto Histórico Geográfico Brasileiro* 30, no. 34, part I (1867): 31–32. Rebello originally published the *Memória* in 1836. The *Revista do Instituto Histórico Geográfico Brasileiro* republished it in 1867, two years after the US Civil War and the 13th Amendment; the republication of Rebello's essay in 1867 is significant, as slave emancipation in the United States rekindled discussions about the future of slavery in Brazil.

¹⁹⁵ Rebello, *Memória e considerações*, 36.

civilized societies, which depended on the number of “citizens” in each population.¹⁹⁶ Therefore, the slave trade did not benefit Brazil because it introduced slaves rather than citizens into the country. Rebello lamented that Brazil lacked skilled workers, soldiers, and artisans, while the demographic consequence of the traffic meant that the future bedrock of the nation necessarily originated from the “unfortunate Africans.” Colonization and slavery presented Brazil with the challenge to forge a nation out of a population bereft of culture and civilization.¹⁹⁷ Rebello advocated repatriating the slaves to the African continent because they were not good material for a future Brazilian nation. Rather, German, Swiss, and other European colonists could free Brazil from the need for slaves and put the country on the path toward civilization.¹⁹⁸ He also suggested a land reform program that would incentivize colonists to work in agriculture and prevent their descent into vagrancy and petty criminality.

The debates about the problem of freedom in postindependence Brazil incorporated economic, cultural, moral, class, and racial critiques of human trafficking. Despite their differences, both sides were preoccupied with the problem that the traffic presented to Brazilian liberal institutions and the progress of the nation. The views of proslave trade advocates tended to reflect the influence of the planter elite and focus on the economic necessity of slavery. Antislavery reformers, however, highlighted the cultural and legal implications of slavery in a constitutional monarchy, while stressing that the continuation of the slave trade and slavery challenged Brazil’s future. Supporters and opponents of the traffic alike, however, argued for strong social control policies to repress slave resistance and rebellion and to discipline the free poor into workers. The penitentiary stood as the site to concretize these ideas. Members of the *Sociedade Defensora* who served as elected officials between 1830 and 1834, reflecting both supporters and opponents of the traffic to varied degrees, shaped the penal reforms that defined institutions of social control for the rest of the nineteenth century.

CONCLUSION

The *Sociedade Defensora*’s opposition to the slave trade ultimately failed to curtail the “odious commerce,” which makes the organization’s

¹⁹⁶ Rebello, *Memória e considerações*, 37.

¹⁹⁷ *Ibid.*

¹⁹⁸ Rebello, *Memória e considerações*, 38.

antislavery program and its relation to building the penitentiary seem like a footnote in the history of antislavery discourse in Brazil. The organization's role in the construction of the Casa de Correção remained mostly in obscurity. The official record announcing the construction of the prison in 1833 did not even mention the Sociedade Defensora as the architect of the project. Written at the time for an audience of lawmakers, many of whom were members of the Sociedade Defensora, the announcement would have been understood then as the organization's brainchild and the discursive ties between building the penitentiary and antislavery ideas and their significance to national progress would have been self-evident. Instead, the rapid explosion of the slave trade after 1837 and the inauguration of the Casa de Correção in 1850 under a conservative cabinet have overshadowed the origins of the penal complex in antislavery ideas that aimed to create a free laboring class for postcolonial progress. Yet, significantly, the first inhabitants of the Casa de Correção were predominantly enslaved men and women in the process of being "liberated" from the traffic, along with a minority of convicted criminals. Thus, there was a direct passageway between the slave ship in Rio's harbor and the penitentiary at the city's edge as illegal slavery expanded in Brazil in the nineteenth century.