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# Negotiating Identities, Striving for State Recongnition: Blacks in Cordoba, Argentina 1776-1853

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FLORIDA INTERNATIONAL UNIVERSITY

Miami, Florida

NEGOTIATING IDENTITIES, STRIVING FOR STATE RECOGNITION:

BLACKS IN CÓRDOBA, ARGENTINA 1776-1853

A dissertation submitted in partial fulfillment of the

requirements for the degree of

DOCTOR OF PHILOSOPHY

in

HISTORY

by

Erika D. Edwards

2011

To: Dean Kenneth Furton  
College of Arts and Sciences

This dissertation, written by Erika D. Edwards, and entitled *Negotiating Identities, Striving for State Recognition: Blacks in Córdoba, Argentina, 1776-1853* having been approved in respect to style and intellectual content, is referred to you for judgment.

We have read this dissertation and recommend that it be approved.

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Jean M. Rahier

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Alexandra Diallo

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Bianca Premo

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Mark D. Szuchman, Major Professor

Date of Defense: Aug 4, 2011

The dissertation of Erika D. Edwards is approved.

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Dean Kenneth Furton  
College of Arts and Sciences

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Interim Dean Kevin O'Shea  
University Graduate School

Florida International University, 2011

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## DEDICATION

I dedicate this dissertation to my grandma, Maudell Edwards, who always reminded me to keep moving forward, as I had already come so far.

## ACKNOWLEDGMENTS

During a brief trip to Buenos Aires, Argentina in 2002, I fell in love with the city and began a love affair with its history and culture that resulted in a journey dedicated to the study of Argentina's black history. The result of nine years of study and research has culminated into a project that could not have been done without the assistance of professors, family, and friends, and fellowships that span two countries, Argentina and the United States.

In Córdoba, I would like to thank the staff members of the Arzobispado de la Catedral and Archivo Histórico de la Provincia. The following archivists must be highlighted as their patience, willingness to secure documents, make copies, and provide helpful insight about my project, allowed my two year research experience to be successful endeavor. They include Dora "Dorita" Bustamante, Marcela Alejandra Varela, Héctor Daniel Ríos, María Cecilia Aduisio, and Marica Nelles Garzón. Eduardo Gould's patience will always be appreciated as he would often sit with me for hours answering my inquires about the history of Córdoba. In particular, Raquel Maggi must be credited for giving me a random legajo full of criminal cases in 2006 which ultimately became the nexus of my dissertation. She also went above the call of duty, making sure that I was taken care of inviting me to her home on numerous occasions and became a great friend.

While researching at the archives I had the opportunity to get to know a group of girls who like me were researching for their doctorates. Together we dealt with the frustrations of research and the joys of finding our golden nuggets. I look forward to the day in which I can call Clari, Claudia, Vicki, Caro, and Raquel my colleagues and look forward to seeing them again. Special acknowledgment must be given to Liliana Cuba who was a gem, becoming in many ways a research assistant who worked with me during my second year. Intellectual discussions with historians Dr. Ana Inés Ferreyra, Dr. Monica Ghirardi, Dr. Miguel Rosal, and Dr. Florencia Guzman, assisted in exposing me to Argentine historiography and methodology.

I wish to thank the members of my dissertation committee for their support. I cannot thank my mentor, Dr. Mark Szuchman enough. Our relationship began seven years ago when I

first entered graduate school. Dr. Bianca Premo's excitement for the study of history has been contagious over the years. Her comments were especially encouraging and greatly improved this study. Dr. Alexandra Diallo's presence is such a positive delight. She has been a great personal and professional influence on me. Dr. Jean Rahier's theoretical expertise in the Afro-Diaspora has challenged me to think about the broader implications of this study. Throughout my graduate career he has supported my efforts to be published and serve as Chair in a conference.

I would not have been able to embark on my graduate studies without the support of the Department of History's Teaching and Research Assistantships during the first three years of study. My research would not have been as complete and comprehensive without the generous support of the Tinker Field Research Grant, the Fulbright IIE Fellowship, and Florida International University's Doctoral Evidence Acquisition Fellowship. During my writing phase, I was further supported by the Ford Dissertation Writing Fellowship and Florida International University's Dissertation Year Fellowship. Throughout my graduate career, I have greatly benefited from the McKnight Fellowship which guided me throughout graduate school.

Finally, my friends and family played a crucial role in helping me complete this dissertation. Dr. Mark Szuchman must be mentioned again, as he has seen me grow as a scholar and person. Somewhat naive and often flustered in my first semester, I quickly found myself in a bind. After the third week of graduate school, I was convinced it was not for me. In fact, I felt it was the worst practical joke played on me. I decided that I was going to break the news to Dr. Szuchman that this was not going to work out. Yet during my "intervention" he told me he had the "utmost confidence in my abilities." Moreover he stated quite frankly, "I do not waste my time on students who do not have the capacity to succeed." With those words, I walked out of our meeting in the Fall of 2004, and have not doubted my decision to pursue my doctorate degree. Over the years it came quite evident that these "interventions" would occur at most challenging benchmarks of graduate studies such as comps prep, proposal writing, research, and writing my dissertation. Each time, Dr. Szuchman would remind me of his confidence in my abilities and would guide me to make the best decision. As I make the transition from student to academic, I

look back and think where did the time go? But with that thought comes gratification as I know that having Dr. Mark Szuchman as my mentor has given me so many professional skills that I will be able to utilize in the future and enjoyable memories that will be remembered with a smile.

Dr. Sherry Johnson and Dr. Akin Ogundiran are two key people in my life who served on my comps committee and have since become friends and confidants. Dr. Chantelle Verna and Dr. Aurora Morcillo's positive attitude and willingness to help me cannot be underestimated. Additionally, graduate students Julio Capó, Quinn Dauer, Lorie de la Fe, Rachel Emas, Joseph Holbrook, Anny Mungary, and Carolina Zumaglini taught me in their own ways how to be a good scholar, activist, and a friend. In particular, my fellow Argentine historian "Caro" has been traveling the longest with me on this journey. I met Caro during my second semester of graduate school and we quickly became friends. Her sometimes brutal honesty and caring heart has taught me how to be a better person.

I began this study nine years ago under the encouragement of Dr. Dennis Devlin, who saw my potential and strongly recommended I join the McNair program. I was paired with Dr. David Stark for two years, who became my "tio" and friend. Over the course of nine years of traveling back and forth, I met my match, Ulises Alaniz, who supported me from the first day I stepped into the archives. His encouragement and positive attitude kept me afloat during difficult moments and he always reminded me to relax and listen to the music.

Finally, none of this could have been possible without the love and support of my family. I will be the first in my family to receive a doctorate degree, and I proudly stand on the shoulders of the many generations of the Edwards and Walker families. My father has taught me the power of forgiveness and music's divine grace. I am my mother's daughter and could not have asked for more. My better half, my twin sister, Lydia Edwards has known me since before I was born. She has been my biggest supporter and a true blessing. Ultimately, this experience has taught me that most important it is not the end result but the journey that I have shared with so many people. If I had to do it all over again, I would do so gladly.



ABSTRACT OF THE DISSERTATION  
NEGOTIATING IDENTITIES, STRIVING FOR STATE RECOGNITION:  
BLACKS IN CÓRDOBA, ARGENTINA 1776-1853

by

Erika D. Edwards

Florida International University, 2011

Miami, Florida

Professor Mark D. Szuchman, Major Professor

Race in Argentina played a significant role as a highly durable construct by identifying and advancing subjects (1776-1810) and citizens (1811-1853). My dissertation explores the intricacies of power relations by focusing on the ways in which race informed the legal process during the transition from a colonial to national State. It argues that the State's development in both the colonial and national periods depended upon defining and classifying African descendants. In response, people of African descent used the State's assigned definitions and classifications to advance their legal identities. It employs race and culture as operative concepts, and law as a representation of the sometimes, tense relationship between social practices and the State's concern for social peace.

This dissertation examines the dynamic nature of the court. It utilizes the theoretical concepts multicentric legal orders that are analyzed through weak and strong legal pluralisms, and jurisdictional politics, from the late eighteenth to early nineteenth centuries. This dissertation juxtaposes various levels of jurisdiction (canon/state law and colonial/national law) to illuminate how people of color used the legal system to ameliorate their social condition. In each chapter the primary source materials are state generated documents which include criminal, ecclesiastical, civil, and marriage dissent court cases along with notarial and census records. Though it would appear that these documents would provide a superficial understanding of people of color, my analysis provides both a top-down and bottom-up approach that reflects a continuous negotiation for African descendants' goal for State recognition. These approaches allow for implicit or

explicit negotiation of a legal identity that transformed slaves and free African descendants into active agents of their own destinies.

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## INTRODUCTION

### Negotiating Identities, Striving for State Recognition: Blacks in Córdoba, Argentina, 1776-1853

This dissertation explores the intricacies of power relations by focusing on the ways in which race informed the legal process during the transition from the late colonial period to the national state. It argues that the State's development in both eras was conditioned by the processes of defining and classifying African descendants. In response, people of African descent negotiated with the State's assigned definitions and classifications to advance their socio-economic conditions. Furthermore, this dissertation employs race and culture as operative concepts, and law as a representation of the sometimes tense relationship between social practices and the State's concern for social peace. The city of Córdoba is the principal venue for the study.

#### Slavery in Córdoba, Argentina: The Historical Background

The call to introduce African slaves to what is present-day Argentina occurred shortly after the Spanish settlement of South America in the sixteenth century. Pedro Gomes Reynel, a Portuguese trader, received the first official *asiento*, or a formal contract given to an individual or company, to bring Africans into the area.<sup>1</sup> That year Reynel brought 600 slaves to Buenos Aires beginning the slave trade that would last for the next 300 years in the Río de la Plata, an area that then consisted of present-day Argentina, Uruguay, Paraguay, Chile, and southern Bolivia.<sup>2</sup> The slave trade was a part of a larger Atlantic economy. Connecting Europe, Africa, and the Americas, this economy served as an exchange of people, ideas, and products. In particular, the forced movement of Africans transformed the Americas. Similar to the Río de la Plata, throughout the Spanish territories Africans served to fulfill a labor shortage, as many Indians had died in the process of the Spanish conquest which began at the end of the fifteenth century.

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1. Robert John Turkovic, "Race Relations in the Province of Córdoba, Argentina, 1800–1853" (Gainesville, Florida: University of Florida, 1981), 95.

2. Russell Edward Chace, "The African Impact on Colonial Argentina" (Santa Barbara, CA: University of California Santa Barbara, 1971), 14–18.

In order to have a steady supply of slaves, African states played a crucial role in meeting the American demand. States such as Loango and Angola predominately supplied slaves to the Río de la Plata followed by West African nations in the Bight of Biafra (Bonny and Calabar) and Mozambique.<sup>3</sup> The majority of slaves in the Río de la Plata arrived by way of the Portuguese slave trade, which meant they had often come by way of Brazil. Brazil supplied slaves both legally and through illegal routes to the Río de la Plata making it very difficult for scholars to calculate the actual amount of slaves that disembarked on the shores of present-day Argentina. Nevertheless, many slaves came to Argentina over a span of 300 years and the majority entered through the port of Buenos Aires, whose location marked the point of arrival for many goods provided by the Atlantic economy. From Buenos Aires, many slaves traveled to the interior, first stopping in Córdoba.

Córdoba, a city founded in 1573 by Jerónimo Luis de Cabrera, originally served the purpose of territorial expansion in the Southern Atlantic. Furthermore because of its central location in the Río de la Plata, it served as a center for the redistribution of Atlantic products to the northern regions such as Upper Peru.<sup>4</sup> Throughout the sixteenth century, Córdoba traded livestock such as sheep and mules and the products of these animals such as wool. Other products included slaves, which were in high demand in Upper Peru. By the late sixteenth century, Córdoba became the principal entrepôt after Buenos Aires for the distribution of slaves throughout Spain's southern territories. From 1588 to 1610 six trading companies were formed to sell slaves. These companies established a direct relationship with Brazil and Angola. Combined,

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3. Alex Borucki, "The Slave Trade to the Río de la Plata, 1777–1812: Trans-Imperial Networks and Atlantic Warfare," *Latin American Review* 20, no. 1 (2011): 94.

4. Ana Inés Ferreyra, "Córdoba en tiempos de la revolución por la independencia," in *Córdoba en tiempos de la Revolución por la independencia*, in *Historia económica del Cono Sur de América (Argentina, Bolivia, Brasil, Chile, Paraguay y Uruguay). La Era de las Revoluciones y la Independencia*, Hernán Asdrúbal Silva (México: Instituto Panamericano de Geografía e Historia, 2009), 576–574.

these slaving companies sold 632 slaves.<sup>5</sup> From 1596 onward, Chile also began to demand slave labor and acquire them through Córdoba.<sup>6</sup> By 1600, Córdoba was responsible for trading 265 or 25% of the 1,095 slaves that entered Buenos Aires.<sup>7</sup> Although many slaves left Córdoba on their way to Upper Peru, Mendoza, or Chile, many stayed within the province.

The principal purchaser of slaves in Córdoba was the Church, represented by both religious orders and the secular clergy. The two main Catholic orders that settled in Córdoba, Franciscans and Jesuits, established “modest estates and lucrative estancias.” The Jesuits also established a university that in 1613 served as the epicenter for higher education in the Río de la Plata.<sup>8</sup> Throughout the province, Jesuit estancias housed hundreds of slaves; in the estancia Alta Gracia there were 259, Jesus María had 236 and the Candelaria and Caroya had 187 and 162 slaves, respectively. Slaves labored alongside free blacks, whites, and mestizos who worked as salaried peons on the ranches, a practice that blurred racial and social distinctions. On these ranches, some black slaves became domestic servants, while others were trained as skilled craftsmen, such as “tanners, carpenters, blacksmiths, brick makers, masons, and harness makers.”<sup>9</sup> The large number of slaves working on the Jesuit estancias demonstrated that the Church could reconcile its Christian beliefs that argued all men were equal with the institution of slavery. Two prominent Jesuit scholars, Luis Molina and Alonso de Sandoval, argued that slaves were acquired by “just title.” Moreover, “all blacks were slaves in Africa and victims of God’s

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5. Andrea Karina Dimuzio and Claudia Garcia, “Resistencia Esclava en Córdoba. Medios del Siglo XVIII e principios del siglo XIX” (Córdoba, Argentina: Universidad Nacional de Córdoba, 2004), 22.

6. Turkovic, “Race Relations,” 94.

7. Turkovic, “Race Relations,” 92.

8. Jesse Hingson, “Savages Into Citizens: Families, Political Purge, and Reconciliation in Córdoba, Argentina, 1820–1862” (Miami, FL: Florida International University, 2003), 2–3.

9. Chace, “The African Impact on Colonial Argentina,” 148.



punishment brought to the Americas in good faith.”<sup>10</sup> Such arguments demonstrated the belief that there was a natural law or divine order applicable to the institution of slavery.

The Jesuits were expelled from Spanish domains in 1767, when they were the largest slave owners in the Río de la Plata. In Córdoba city, the Jesuits and other religious orders owned slaves scattered about their vast holdings, some of which included the Cathedral, convents, and schools. Male slaves kept the manor and served as artisans, such as shoemakers, blacksmiths, hat makers, and carpenters. Sometimes owners would hire out their semi-skilled slaves to the benefit of both the slave and owner. In principle, the owner received money for renting out his slave’s services but slaves, too, could receive payment. Female slaves tended to do domestic care, cooking cleaning, spinning, and sewing.<sup>11</sup> When given the opportunity, female slaves were able to sell their products, as sweet bread vendors and queseras in the market or as hawkers on the streets. Their earnings were similar to those of males, a situation which might eventually allow them to purchase their freedom directly or in collaboration with family members. By the eighteenth century, however, the native populations had sharply declined and slavery increased to meet the demands of planters and ranchers.

In response to the shortage of slaves, an illicit trade developed to fulfill the demands of the *porteños* (people from the city of Buenos Aires). Uncertainty about the number of contraband slaves sent to the country makes it difficult to know how many slaves actually entered Argentina. For example, between 1588 and 1597, fourteen slaves arrived from Brazil legally under license, but the authorities captured 233 illegal entries.<sup>12</sup> Moreover, of the 12,778 slaves recorded as entering Buenos Aires between 1606 and 1625, only 288 did so legally.<sup>13</sup> Though some efforts

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10. Nicolas Cushner, *Jesuit Ranches and the Agrarian Development of Colonial Argentina, 1650–1767* (Albany: SUNY Press, 1983), 111–12.

11. Dimuzio and Garcia, “Resistencia Esclava,” 30–31.

12. Chace, “The African Impact on Colonial Argentina,” 14–18.

13. George Reid Andrews, *The Afro-Argentines of Buenos Aires, 1800–1900* (Madison, Wisconsin: University of Wisconsin Press, 1980), 24.

went to eradicate the illegal trade, such attempts were fruitless. Besides illegal slaves, precious goods from Europe also entered the Buenos Aires port, making the trade more tempting. The Portuguese were notorious for shipping contraband goods, though the English and Dutch also participated in such practices. This illegal activity, along with territorial threats from other European powers, such as the attempted British takeover of Cuba and other Spanish-held territories in the late eighteenth century, represented revenue losses and evidence of administrative inefficiencies that led to the enactment of the Bourbon Reforms.

The Reforms' main goal was to increase revenue. In order to do so, the Crown invested in centralizing the administration of its territories and expanding its military. One of its first measures in the South Atlantic was the creation of the Viceroyalty of the Río de la Plata. Prior to its creation, Córdoba and Buenos Aires, two major cities in the Río de la Plata, had come under the jurisdiction of the Viceroyalty of Lima. Designating the Río de la Plata a viceroyalty marked the Crown's interest in increasing revenue and protecting its territory from the Portuguese. Following the Bourbon principles of centralization, the Crown decided in 1782 to divide the territory of the Viceroyalty of the Río de la Plata into intendancies and a Supervisory Government.<sup>14</sup> Intendancies were established in Buenos Aires, Paraguay, La Plata, Cochabamba, La Paz, Potosí, and Salta. Córdoba had originally been a part of San Miguel de Tucumán under the jurisdiction of Salta, but in 1783, the Crown decided to make Córdoba an intendancy. This split the original intendancy of Salta into two. Córdoba would control La Rioja, Mendoza, San Juan, and San Luis. Salta would remain in control of Jujuy, San Miguel de Tucumán, Santiago del Estero, and Catamarca.<sup>15</sup> The creation of the Río de la Plata also assisted in increasing trade.

Within the territory of the Río de la Plata, Buenos Aires was designated as an officially sanctioned port and viceregal capital. This move shifted the Atlantic economy's trade route.

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14. José Luis Romero, *A History of Argentine Political Thought* (Stanford: Stanford University Press, 1963), 49–51.

15. Turkovic, "Race Relations," 22.

Instead of going overland from Lima to Upper Peru, then to Córdoba, and finally to Buenos Aires, products from Europe could be sent directly to Buenos Aires. Furthermore, the Crown allowed for trade with other Spanish territories in 1778, foreign colonies in 1795, and neutral powers during wartime in 1797. Establishing “free trade” with other foreign territories such as Brazil, and making Buenos Aires an official port, directly served to expand the slave trade. The Bourbon Reforms and the increase in the slave trade marked more revenue for the Crown, especially in formerly peripheral areas such as Cuba, Venezuela, and the Río de la Plata.”<sup>16</sup> By the end of the late eighteenth century, the largest slave holding areas in the Río de la Plata included Asunción in Paraguay, Buenos Aires, and Córdoba.<sup>17</sup> During the late eighteenth and early nineteenth centuries four periods, largely influenced by Atlantic warfare and political distress, marked the exponential growth in the slave trade to the Río de la Plata. The first occurred from 1771 to 1791. In total, 10,998 or 785 slaves per year arrived to the Río de la Plata. This periodization involved two periods of significant numbers of slave imports, 1782 and 1788. These peak periods were marked by the Spanish resistance to the British naval blockade in 1779. In order to counter their European rival, the Spanish Crown allowed Portuguese ships to sail between Spain and the Río de la Plata. One of the requirements of this arrangement was to sail to Montevideo; there they exchanged hides and silver that would be shipped to Spain. However, forced by subterfuge and distress at sea, Portuguese ships had to unload their cargoes, which more than likely included slaves.

The second rise in slave arrivals in 1788 came about because of the creation of the *Compañía de Filipinas* in 1785. Initially, the *Compañía* partook in commerce between Spain and the Philippines, but in 1788 it entered the slave trade to the Río de la Plata. The second period (1792-1799) was marked by Atlantic war. The British blockade (1797-1808) interrupted Spanish trade. In attempts to curtail the British, the Spaniards again allowed the Portuguese to trade with

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16. Borucki, “The Slave Trade to the Río de la Plata,” 82.

17. Cushner, *Jesuit Ranches*, 102.

the Río de la Plata. As a result, Brazilian slave arrivals reached their peak by 1800. Within the second period a total of 13, 757 slaves or 1,939 slaves arrived per year. In the third phase (1800-1806) slaves from Africa reached their highest peak. From 1805-1806 10,500 slaves came from Africa and Brazil. In total 32,008 slaves or 5,335 slaves per year arrived to the Río de la Plata. During the fourth period of the slave trade, (1807-1812) 13,644 or 2,778 slaves per year disembarked in the Río de la Plata. This period was marked by the British occupation of Montevideo and ended with the abolishment of the slave trade.<sup>18</sup> Nevertheless the slave trade reopened briefly under General Juan Manuel Rosas, a caudillo, or strongman, who ruled Buenos Aires, in 1831. Rosas responded to the growing need for domestic servants in Buenos Aires. Under the pressure of the British anti-slave trade efforts, this slave trade ended two years later. Interestingly enough, as late as 1853, one hundred Africans were brought to Patagonia, the southernmost area of Argentina.<sup>19</sup>

By the beginning of the nineteenth century, inroads in liberal ideologies, a byproduct of the Atlantic system, had caused the system of slavery to become a questionable institution by some. Great Britain abolished the slave trade in 1807.<sup>20</sup> Doubt as to its future was further cast during the independence period of 1810-1816 in the Río de la Plata. There, porteños (people from the city of Buenos Aires) pushed for the right of self-determination. This sentiment, however, was not equally felt throughout the region. Córdoba and other interior cities had greatly reaped the benefit of Spanish rule. Rapidly a competition between the interior and Buenos Aires ensued. The region's attempts to resist Buenos Aires and quell the independence movement failed as Córdoba's troops were defeated. This signified the eventual dominance by Buenos Aires but not without a protracted fight for political freedom.<sup>21</sup> Forced to follow the designs of the Buenos

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18. Borucki, "The Slave Trade to the Río de la Plata," 87–89.

19. Andrews, *The Afro-Argentines*, 56–57.

20. M.C Mirow, *Latin American Law* (Austin: University of Texas Press, 2004), 143–5.

21. David Rock, *Argentina 1516–1982* (Berkeley: University of California Press, 1985), 80–81.

Aires political leadership in the eventual independence movement, Córdoba's population was similar to the one in Buenos Aires, insofar as war placed enormous pressures on the ability to field soldiers to fight the royalists along with the internal wars that ensued from regional discord. Revolutionary and national leaders needed slaves as a part of man-power and enacted conscription laws that recruited male slaves from 12 to 60 years of age.<sup>22</sup> The slave trade ended in the Río de la Plata 1811; the Free Womb Law was enacted in 1813, freeing all children of slaves, though certain limitations still applied to them. Known as *libertos*, the law insisted that these children stay with their mothers until they married or reached 20 years of age. Before obtaining freedom, *libertos* served as unpaid laborers for their mother's owners until the age of fifteen, after which the children began to earn one peso per month. From 1778 to 1840, as determined by the city of Córdoba's census records, the slave population decreased. The greatest shift took place between 1813 and 1822 when censuses indicated that slaves dropped from 10 to 5 percent of the population. Manumission, natural attrition rate, especially caused by miscegenation, and the 1813 Free Womb Act contributed to increases in the *casta* population.<sup>23</sup> Because of manumission, the number of freedmen in Córdoba steadily increased and at the end of the eighteenth century it tended to equal or surpass that of the slave population.<sup>24</sup>

Freedom, however, did not mean social advancement. Rather, many freed slaves, and free castas lived a precarious life. By the end of the eighteenth century and early nineteenth century, strict regulations were set to restrict this population's movement. Constantly under the watchful eye of authorities, they risked the punishment of forced labor, jail time, or conscription into the military if they were suspected of vagrancy or lacking supervision.<sup>25</sup> Socially marginalized, they

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22. Turkovic, "Race Relations," 246.

23. Turkovic, "Race Relations," 80–87. Castas were considered to be another word for "other" than white, they were blacks, Indians, mestizos (mixture between white and Indian) mulatos (mixture between black and white) zambos (mixture between Indian and black).

24. Turkovic, "Race Relations," 58.

25. Emiliano Endrek, *El mestizaje en Córdoba: Siglo XVIII y principios del XIX* (Córdoba, Argentina: Universidad de Córdoba, 1966), 32–33.

were stereotyped as wanderers and thieves and converted into an element of disorder. Legally, castas were restricted from obtaining an education, dressing above their assigned status, or living among Indians, as they were considered to be elements of social disorder.<sup>26</sup> Each of these regulations was put in place to ensure that the increasing population of mestizos would be identifiable and controlled by the authorities.

In this sense, the law, as seen from the top of the social and institutional hierarchy, appeared designed to maintain established practices of social control based on racial discrimination. Yet, at the same time, free castas and slaves also used the same body of law to question their treatment and to improve their conditions. Under the existing discriminatory system, slaves had some rights. For example, a slave could marry the wife of his choice, although that did not liberate him if she was free. Owners could not starve or kill their slaves and had to provide shelter. If mistreated, a slave could appeal to the court and request a new master or, in extreme cases, be set free.<sup>27</sup>

Thus, slaves went to court to test their assigned identities and fight to be recognized by the State as something more than mere chattel. It is from this perspective that this dissertation examines the black experience in the interior of Argentina, by way of the legal system. Judicial proceedings provide a unique lens of understanding how blacks worked within the legal system to attempt to ameliorate their social conditions. The ability to work within the system rather than militantly against it, will add to the field that has primarily focused on Afro-Latin violent and overt instances of resistance and rebellions.

#### The Racial State: Afro-Latin American Historiography

Scholars have agreed that the field of African Diasporic studies “strives to understand the movement of black peoples from their ancestral homelands to a variety of host countries.” This

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26. Endrek, *El mestizaje en Córdoba*.

27. Turkovic, “Race Relations,” 58.

has been examined by looking at the “social, physical, political, cultural, and economic meanings of black movement and the interrelationships Diasporans maintained among themselves, their host societies, and their original homelands.”<sup>28</sup> This dissertation addresses the theme of the African Diaspora, by engaging the retention versus creole/survivalist approaches that have dominated the field. Moreover, it informs the discipline of a lesser known geographical area, Córdoba, Argentina by way of race and law, a judicial contact point that has received considerably less attention in the field.

Two prominent methodologies of the African Diaspora are the retentionist/comparative historical approach and the creolization/survivalist approach. The retentionist/comparative historical approach juxtaposes black populations that are geographically separated, in order to understand the Diasporic experience. The other is the creolization/survivalist approach, which focuses on the influences and impact of Diasporans on the regions where they have migrated. The retentionist school stresses slave resistance through cultural retention, while the creolization school focuses on slave adaptability. These Afro-Diasporic frameworks have been used within Afro-Latin American historiography in order to answer questions of black identity within local and regional contexts.<sup>29</sup>

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28. Ben Vinson III, “Introduction: African Diaspora History, Latin American History,” *The Americas* 63, no. 1 (2006): 7; Paul Gilroy, *The Black Atlantic: Modernity and Double-Consciousness* (Cambridge: Harvard University Press, 1993); Isidore Okpewho, and Carole Boyce Davies, *African Diaspora: African Origins and New World Identities* (Bloomington: Indiana University Press, 1999); Brent Hayes Edwards, “The Uses of Diaspora,” *Social Text* 19, no. 1 (2001); Patrick Manning, “Africa and the African Diaspora: New Directions of Study,” *Journal of African History* 44, no. 3 (2003): 487–506; Tiffany Patterson, and Robin D. Kelley, “Unfinished Migrations: Reflections on the African Diaspora and the Making of the Modern World,” *African Studies Review* 43, no. 1 (2000): 11–45; Paul Tiyambe Zeleza, “Rewriting the African Diaspora: Beyond the Black Atlantic,” *African Affairs* 104, no. 414 (2005): 35–68; Kim Butler, “Defining Diaspora, Refining a Discourse,” *Diaspora* 10, no. 2 (2001): 189–219; Colin A. Palmer, “Defining and Studying the Modern African Diaspora,” *American Historical Association Perspectives* 36, no. 6 (1998): 22–25; Paul Gilroy, “Diaspora,” *Paragraph: The Journal of the Modern Critical XVII*, no. 3 (November 1994): 207–15; Robin Cohen, *Global Diasporas: An Introduction* (Seattle: University of Washington Press, 1997).

29. Ben Vinson III, and Stewart R. King, “Introducing the ‘New’ African Diasporic Military History in Latin America,” *Journal of Colonialism and Colonial History* 5, no. 2 (2004); Aline Helg, *Liberty and Equality in Caribbean Colombia, 1770–1835* (Chapel Hill: University of North Carolina Press, 2004); Kim Butler, *Freedoms Given, Freedoms Won: Afro-Brazilians in Post*

For the case of Córdoba, the creolization/survivalist approach fits the black experience. The evidence, derived from census data, judicial proceedings and notarial records demonstrates that blacks focused primarily on surviving and adapting to their new cultural surroundings. Unlike other regions of the Diaspora, such as Buenos Aires, the lack of mutual aid societies or black newspapers in Córdoba reveals more individualized approaches to legal identity and greater challenges to the construction of a collective social identity. The lack of collective cultural markers such as newspapers, created from within the black community for their consumption, presented alternative mechanisms for black adaptation and advancement in Córdoba. Yet, little is known about black legal identity and their interaction with the State. In particular, there is a gap in current scholarly discourse about how state apparatuses (judges, notarial officials, and police) influenced the formation of racial identity in the city of Córdoba, an important location for the internal slave trade and circulation that lasted for 300 years.

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*Abolition São Paulo and Salvador* (New Brunswick, New Jersey: Rutgers University Press, 1998); Andrews, *The Afro-Argentines*; George Reid Andrews, *Afro-Latin America 1800–2000* (New York: Oxford University Press, 2004); Jane G. Landers, “Cimarron and Citizen: African Ethnicity, Corporate Identity, and the Evolution of Free Black Towns in the Spanish Cirum-Caribbean,” in *Slaves, Subjects, and Subversives: Blacks in Colonial Latin America*, Jane Landers, and Barry Robinson (New Mexico: University of New Mexico Press, 2006), 111–46; Aline Helg, “Race in Argentina and Cuba, 1880–1930: Theory, Policies, and Popular Reaction,” in *The Idea of Race in Latin America, 1870–1940*, Richard Graham (Austin, Texas: University of Texas Press, 1992), 37–70; Rebecca Scott, *Slave Emancipation in Cuba: The Transition to Free Labor, 1860–1899* (Princeton: Princeton University Press, 1985); Alejandro de la Fuente, *A Nation for All: Race, Inequality, and Politics in Twentieth-Century Cuba* (Chapel Hill: University of North Carolina Press, 2001); Ada Ferrer, *Insurgent Cuba: Race, Nation, and Revolution, 1868–1898* (Chapel Hill: University of North Carolina Press, 1999); Karen Morrison, “Civilization and Citizenship Through the Eyes of Afro-Cuban Intellectuals During the First Constitutional Era, 1902–1940,” *Cuban Studies* 30 (1999): 76–99; Alejandra Bronfman, *Measures of Equality: Social Science, Citizenship, and Race in Cuba, 1902–1940* (Chapel Hill: The University of North Carolina Press, 2004); Rebecca Scott, “Fault Lines, Color Lines, and Party Lines: Race, Labor, and Collective Action in Louisiana and Cuba, 1862–1912,” in *Beyond Slavery: Explorations of Race, Labor, Citizenship in Post Emancipation Societies*, Frederick Cooper, and Rebecca Scott and Thomas Holt (Chapel Hill: The University of North Carolina Press, 2000), 61–106; Carmen Bernard, “La población negra en Buenos Aires (1777–1862),” in *Homogeneidad y Nación con un Estudio de Caso: Argentina, Siglos XIX y XX*, Mónica Quijada and Arnd Schneider (Madrid, Spain: Consejo Superior de investigaciones científicas centro de humanidades. Instituto de Historia, 2000), 93–140.



Most scholarship on the history of legal institutions tends to focus on the province of Buenos Aires. Ricardo Salvatore and Osvaldo Barreneche have recently demonstrated that Buenos Aires' legal system was geared toward the maintenance of public safety and social control.<sup>30</sup> Furthermore the few works on the province of Córdoba examine the legal system and its application to people of color, such as Mario Rufer and Emiliano Endrek, but they are focused on the colonial period.<sup>31</sup> The relationship between the legal system and race in judicial processes remains to be examined in a comparative temporal framework.

This dissertation will further add to the field in two ways. First, given that the history of Afro-Argentines from Buenos Aires continues to dominate the field, the project will contribute to the growing scholarship of Afro-Argentine studies by expanding its geographical boundaries.<sup>32</sup> Second, it will examine continuities across time. In particular, the transition from the colonial to national state will further explain how blacks appealed to two distinct notions of statehood. Within a colonial regime, blacks were subjects under a patriarchal and hierarchical system of social control. In order to be a loyal subject one had to abide by spatial and racial hierarchies that were bestowed by God and justified as honorable acts. A citizen of the post-colonial era, however, was to be a more participatory agent in shaping the nation. Their virtue was based on

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30. Ricardo Salvatore, *Wandering Paysanos: State, Order and Subaltern Experience in Buenos Aires: The Rosas Era* (Durham, North Carolina: Duke University Press, 2003); Osvaldo Barreneche, *Crime and the Administration of Justice in Buenos Aires 1785–1853* (Lincoln, Nebraska: University of Nebraska Press, 2006).

31. Mario Rufer, *Historias Negadas: Esclavitud, Violencia, y Relaciones de Poder en Córdoba a Fines del Siglo XVIII* (Córdoba, Argentina: Ferreyra Editor, 2005); Endrek, *El mestizaje en Córdoba*.

32. Andrews, *The Afro-Argentines*; Marvin Lewis, *Afro-Argentine Discourse: Another Dimension of the Black Diaspora* (Columbia: University of Missouri Press, 1996); Alejandro Solomianski, *Identidades secretas: la negritud argentina* (Rosario, Argentina: Beatriz Viterbo Editorial, 2003); Marta Goldberg, "La población negra y mulata de la ciudad de Buenos Aires, 1810–1840," *Desarrollo Económico* 16 (April-June 1976); Marta Goldberg, "Las afroargentinas (1750–1880)," in *Historia de las mujeres en la Argentina*, Fernanda Gil Lozano (Buenos Aires: Tarus, 2000), 67–85; Miguel Angel Rosales, *Africanos y afrodescendientes en el Río de la Plata: siglos XVIII-XIX* (Buenos Aires: Dunker, 2009); Daniel Schávelzon, *Buenos Aires Negra: Arqueología histórica de una ciudad silenciada* (Buenos Aires: Emecé Editores, 2003).

liberal rhetoric that disowned spatial and racial hierarchies. Instead, all citizens and even non-citizens were seen as equal under the law. These aspects are explored by analyzing ecclesiastical, criminal, marriage, and freedom-seeking cases involving African descendants. The dissertation is based on the theoretical frameworks, multicentric legal orders and jurisdictional politics, which deal with negotiating identities and the recognition of the “other.” These theories juxtapose various levels of jurisdiction (canon/state law and colonial/national law) to illuminate how people of color used the legal system to negotiate their social condition and ultimately transform their legal identities.

### Jurisdictional Politics: The Contestation Over Legal Identities

This dissertation’s theoretical framework rests on the construct of multicentric legal orders and jurisdictional politics explained by Lauren Benton. Multicentric legal orders are legal systems in which the state is one among many legal authorities. Multicentric legal orders focus on the “historical shift from one legal regime to another.” They are further divided into strong and weak legal pluralisms. A strong legal pluralism describes political attempts to “fix rules about the relation of various legal authorities. A weak legal pluralism is a set of legal orders where there is an “implicit (mutual) recognition of “other” law. In the case of Córdoba, both weak and legal pluralistic systems existed.

In the late colonial period of 1776 to 1810, the politics of the *barrio*, for example, set codes of conduct that people abided by in order to maintain peace throughout the city. These legal orders sometimes contrasted with the official law’s rhetoric. This discrepancy occurred because of an implicit acknowledgement of the existence of two codes of behavior, indicating the existence of a weak pluralist model. Sometimes, contestation between official bodies of law occurred, as in the cases of marriage, which was debated among canon and civil law experts in cases in which slaves’ freedom was an issue, as occurred during the transition from the colonial to national state. Politically prominent legal institutions, such as the courts, represented a strong legal pluralism as various sources provided explicit legal authorities. In both cases, either strong

or weak legal pluralisms led to defining the “rules of engagement,” or a “set of shifting procedural and legal rules about the relations among cultural or religious groups.” Although Córdoba’s black community did not represent a collective group attempting to seek State recognition, an assessment of the State’s verdicts in cases involving African descendants revealed new interpretations of the law. As a result, new understandings of legal identities applicable to people of color came to fruition.<sup>33</sup>

Through this process of legal interpretation, jurisdictional politics, or a constant jockeying over the preservation, creation, nature and extent of different legal forms and institutional authorities, such as canon and civil law, ensued. The ways in which jurisdictional disputes played out were crucial to changing notions of cultural boundaries because “jurisdiction” implied a certain sharing of identities and values among subjects. Contestation over these cultural understandings produced opportunities for marginalized people, and in particular slaves, to maneuver within the legal system in an attempt to meliorate their lives.

While this theoretical framework is an important interpretive tool, other theoretical considerations need to be taken into account. In particular, the voices on which the analysis is based must be addressed. Blacks in Córdoba constantly sought out State recognition and in the process defined their legal identity. In taking from the law, blacks and castas sought out redemption when necessary, seeking the right to marry or claiming freedom, for instance. Their ability to go to court was facilitated by the person who held the position known as the Defensor de los Pobres. Throughout the cases, it is the Defensor’s words that often provided at least part of the black person’s actual narrative. Most slaves and free castas were illiterate with very little education so the eloquent understandings of the colonial or national state, often well-argued by the Defensor, technically did not come from the slave or free person of color. The slave’s voice

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33. Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History 1400–1900* (New York: Cambridge University Press, 2002), 8–11.

then comes into question. Is it the Defensor's understanding of race relations, or does the slave actually know about his/her socio-political environment?

I counter this critique by addressing the overall goal of the slave or free person of color. Slaves and free castas sought out the assistance of the Defensor de los Pobres to achieve state recognition. The Defensor served as a mechanism by which slaves could receive state recognition and ultimately meliorate their social conditions. As such, the Defensor's rhetoric forms a part of the rules of engagement. His arguments sought out new interpretations of the law that were used to benefit a marginalized group. The political discourse that takes place among adversaries within the court system, usually the Defensor against the fiscal, demonstrated the rules of engagement. The back and forth contestation between the Defensor and fiscal represent jurisdictional politics. It is within this scenario that different interpretations of the law are argued in court. The court thus becomes a contact point of various legal identities.

#### Sources and Methodology

Divided into four substantive chapters, the dissertation examines the dynamic nature of the court with the use of the theoretical concepts, the multicentric legal orders that are analyzed through weak and strong legal pluralisms, and jurisdictional politics, from the late eighteenth to early nineteenth centuries. Internally, the chapters are chronologically organized to assist in examining Córdoba's illustration of the larger transition in the Río de la Plata from colony to nation. Primary source materials are state generated documents such as notaries, censuses, and criminal, civil, and ecclesiastical cases. Though it would appear that these documents would provide a superficial understanding of people of color, the analysis provides both a top-down and bottom-up approach that reflects a continuous negotiation for African descendants' goals for State recognition. These approaches allow for implicit or explicit negotiation of a legal identity that transformed slaves and free castas into active agents of their own destinies.

The first chapter, "Thy Will Be Done: Sexual Scandal in Córdoba" delves into the context of Church and sexuality during the colonial period. The Church served as a moral

authority that set guidelines for people's sexual behavior and, in particular, female sexuality. The strict regulation of female sexuality will be examined through the experiences of black women both slave and free. This perspective ultimately demonstrates that strict hierarchies of racial and spatial boundaries were often transgressed. Cases demonstrate that "public" and "private" spaces were often ambiguous and allowed various illicit relations between interracial couples to occur. The barrio in particular facilitated such relationships. Often being the "other" or implicit law, the barrio abided by its code of conduct in order to keep the peace. In the barrio, the need to call on the police was realized only once criminal activity reached an intolerable level. The crime, such as sexual deviance, in itself was not an issue so long as it did not harm too many people in the barrio. Once, however, it reached a level considered high enough that the implicit legal order might be at risk, the official State was sought in order to bring order back and return to a condition of suitable governance.

Marriage dissent cases are analyzed in the chapter, "Divinely Favored to Individually Selected." Cultural boundaries and legal jurisdictions are addressed through the institution of marriage. The Catholic Church's protection of free will and its inclination to support the personal choice of couples provide an opportunity to study the more complex political and legal competition between the Church and State for stewardship over family considerations, beginning with marital choice. For the purpose of marriage, free will meant the right to choose marriage partners. Protected by the Church for centuries, marriage practices were challenged and eventually came under the control of the Spanish Crown with the enactment of the Royal Pragmatic, only to reemerge with liberalism and its emphasis on an autonomous individual rather than a social collective, such as family and community.

Freedom seeking cases are discussed in the chapter "Human Property to Free Individuals." Abolition in Córdoba ultimately transformed human property into free individuals. It began with the acknowledgement that slaves though property, were still humans. In order to have some sense of compromise, the State enacted various laws that protected owner's property while still acknowledging a slave's humanity. The agreement in many ways allowed for both the

slave and owner to maintain a functional relationship. When and if the law was violated, slaves could go before the court and plead their case. Appeals to the State continued throughout the national period but the meaning on which slaves went to the court had changed; now they argued for their individual rights. As an individual and eventual citizen, they were guaranteed the right to be free.

“Mestizaje: Córdoba’s Patria Chica” the final substantive chapter focuses primarily on the legal identity of the slave and free casta population. It analyzes how the notion of patria chica during the post-colonial period allowed for Córdoba’s black community to become part of the mestizo group rather than “homogenized,” during the first half of the nineteenth century. In doing so, the national state acknowledged that it had a diverse population, but maintained its hierarchical structure. This chapter challenges the dominant historiography that uses Buenos Aires’s whitening experience to explain the myth of the black disappearance in Argentina. It further reexamines the meaning of “pardo,” arguing that it does not just mean black descendant but, rather is used to describe a casta. Study of the censuses of 1813, 1822, 1832 and 1840, it became apparent that “racial re-labeling” contributed to the black population’s myth of “disappearance.” As the century progressed, instead of maintaining their original racial category of “black,” census takers relabeled blacks as “pardos.”

The large population of mixed-race peoples, particularly of African descent, came into regular contact with law enforcement officials, judges, lawyers, and notaries in Córdoba over the course of 1776 to 1853. These contact points transformed the identities of people of African descent, largely rendering them active participants in the colonial and national states. People of color often embraced the idea of being the King’s royal subjects or, later, as loyal citizens of the Nation and thus argued that they deserved various privileges and rights. Violation of their bestowed privileges and earned rights provoked many to go before judges in order to seek justice, relying on the idea that the King or the Nation would be on their side as they had faithfully and loyally served them. In seeking redress from the colonial or post-colonial state, slaves and free people of color became active agents in defining their legal identities.

CHAPTER 1  
Thy Will Be Done: Sexual Scandal and Barrio Politics

From the vantage point of the powerful in Spanish American colonial society, there was to be an implicit understanding of knowing one's place and performing within that space. The King and Church established expected norms in temporal and spiritual matters in a hierarchical scheme that bestowed differentiated privileges on segments of society. They set limitations on people as moral beings and in their interactions with other groups. In particular, the Church's moral authority determined virtuous acts that all people could aspire to achieve. In Latin America, symbols of the Church and State were often reflected by strategic placement. After conquest, Europeans established their asserted social superiority by way of building material and spatial boundaries which evoked and reified the hierarchical structure that granted power and prestige to some while often restricting the latitude of power among most.

It is from this perspective, however, that this chapter looks to test this reality through the analysis of sex scandals. By examining these transgressions, this chapter argues that the notion of a rigid hierarchical colonial society was a relatively superficial perception. Furthermore, the exploration of the concept of honor, which played heavily on creating racial and spatial hierarchies, ironically facilitated sexual transgression. The Church, although outwardly condemning those who partook in sexual relations outside of marriage, still divided its moral judgment along class lines. Considered to possess clear notions of honor and privilege, the Church expected elites to behave in a manner that reflected their status. Sexual relations outside of marriage would not be tolerated as elite partnerships were considered to be divinely favored. Marriage represented a sacred bond between both God and State and further infused social networks among the elite families. Sexual practices outside of marriage among the popular classes, though frowned upon were not as strictly punished. Knowing that they did not possess honor, the Church instead focused on their salvation as a means to curb their sexual

transgressions.<sup>1</sup> Understanding the difference between the Church's reaction to elite and popular classes' morality helped to sustain the stereotype that casta women lacked any sexual boundaries. From the elite's stand-point, black women were only doing what was the habit. Closer observation of these promiscuous behaviors at the ground level would suggest, however, that they experienced more freedom and flexibility than perhaps the elites could imagine. Black women's virtue did not have to be protected as they were considered to have none. Their exclusion from the upper social tiers provided them with more freedom and flexibility to negotiate their social identities in a society very much concerned with social status and reputation. In order to partake in various sexual scandals, women of color crossed various racial and spatial boundaries, thereby challenging the Church's moral authority.

The manifestation of a scandal required the transgression of customary values or behaviors in the community. In particular, a scandal had a moral dimension that often required the community to intervene on behalf of an individual's negative behavior which had caused moral damage and set a bad example for the rest of society.<sup>2</sup> As determined by the criminal cases from the colonial period, sexual deviant activities involving people of color included cohabitation and adultery. Cohabitation practices represented consensual relationships between men and women. Cohabitation took on characteristics of a married couple living together in long term relationships.<sup>3</sup> Furthermore, scandals were closely related to the geographic mobility that characterized the economic activities of many men, who travelled between their home and work.

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1. Lara Putman, Sara C. Chambers, "Introduction: Transformations in Honor, Status, and Law Over the Long Nineteenth Century," in *Honor, Status, and Law in Modern Latin America*, Sueann Caulfield, Sarah C. Chambers (Durham: Duke University, 2005), 4.

2. Darío Dominino Crespo, *Escándalos y delitos de la gente plebe: Córdoba a fines del siglo XVIII* (Córdoba, Argentina: Universidad de Córdoba, 2007), 40.

3. Eugenia Soledad Ambroggio, "Capítulo 5: Amancebamientos y escándalos: los límites de la tolerancia comunitaria," in *Mecanismos formales e informales de control social. Un acercamiento desde la aplicación de la justicia y los estudios de género en la Córdoba tardo colonial*, Eugenia Soledad Ambroggio (Córdoba: Universidad de Córdoba, 2007), 122.



Many owned properties, both large and small, outside the city and beyond.<sup>4</sup> As a result, his spatial mobility facilitated black women's ability to cross racial and spatial boundaries.

Components within the schemes of race and space provided an implicit understanding of each person's place. People knew their place in society based upon how they were perceived by others and the shared understanding that social standing was needed to maintain control in a potentially fractious society. Perception was of particular importance to those of the higher ranks among whom standing and prestige were constantly affirmed by others. Generally speaking, Spaniards were considered to be at the highest social level, followed by mestizos, Indians, mulatos, and blacks. The black population was further divided among those who were free and those who were enslaved. These racial hierarchies went in tandem with spatial hierarchy. The layout of a colonial city, marked Spanish King's rule and the Church's moral authority, as the most majestic buildings the Cabildo and Cathedral, were clearly placed in the Plaza Mayor, a space that symbolized European domination and civilization in Latin America. Both hierarchies, race and space, were justified by the concept of honor, as it encapsulated governance and the law. These characteristics in turn reinforced the hierarchical society that promoted social inequality. As a result, a code of honorable behavior came about that separated those with privilege and those without.

#### Honorable Intentions: The Church's Moral Authority

In colonial Latin America, honor began with God and flowed through the monarch to the nobility and commoners. In general, honor was distinctive character that rationalized the existence of colonial hierarchies which divided society by race, class, and gender. Within a society largely based upon one's perception and reputation, honor often separated those who

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4. María Emma Mannarelli, *Private Passions and Public Sins: Men and Women in Seventeenth Century Lima* (New Mexico: University of New Mexico Press, 2007), 63.

possessed it, and thus denied certain levels of prestige from those who did not have it, and for that reason, needed to be controlled.

Any act that caused social disturbance or social unrest such as a sex scandal had to be quelled and often severely punished in order to reclaim one's status and reputation among their peers.<sup>5</sup> In 1805, mulato Santiago Rearte was brought before the colonial court on the accusations of cohabiting with María Francisca Agüero. He had two illegitimate children with her and had been known to rob neighboring haciendas. Arguing that he “had no fear of God or justice, the fiscal ordered that he be punished for his wrongdoings” as both church and state argued “God had created the colonial social order and that social justice was the maintenance of divine intentions.”<sup>6</sup> Coming from God meant that the Church took on the role of steward of morality and the authority on the matter, dispensing norms and penalties for their infraction. In regards to honor, the Church in the colonial period often trumped the State in this matter. While the State provided a legal basis for the family and for intra-family relations, the Church watched over the moral and social aspects of marriage, the family and women. Honor was the supreme social virtue and could be divided along gender lines. Honor-status was a male attribute that depended on conquest, victory, and dominion. For men honorable actions were based on their conduct in economic and public affairs. Honor-virtue focused on the maintenance of status over time and was contingent upon female purity.<sup>7</sup> Honorable females remained sexually chaste until marriage and maintained post-marital fidelity.<sup>8</sup>

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5. Putman, “Introduction,” 3.

6. Archivo Histórico de la Provincia de Córdoba. Crimen, Legajo 102, Exp. 12 (1805); Lyman Johnson, and Sonya Lipsett-Rivera, “Introduction,” in *The Faces of Honor: Sex, Shame, and Violence in Colonial Latin America*, Lyman Johnson, and Sonya Lipsett-Rivera (Albuquerque: University of New Mexico Press, 1998), 13.

7. Putman, “Introduction,” 16.

8. Elizabeth Anne Kuznesof, “Gender Ideology, Race, and Female-Headed Households in Urban Mexico, 1750–1850,” in *State and Society in Spanish America During the Age of Revolution*, Victor Uribe-Uran (Wilmington, DE: Scholarly Resources, 2001), 155.

The Church in colonial Latin America had a specific interest in governing sexual relations. Stated clearly in Church doctrine, adultery and lust were mortal sins. Temptations of the flesh meant potential eternal damnation for the soul. As an authority on morality, the Church set the guidelines for humanity's struggles between the spirit and flesh. The ultimate decision however rested on personal choice.<sup>9</sup> As a result, the Church "insinuated itself into the domain of the family and sexuality by controlling the rites of marriage and defining sexual and domestic sins." While morality was a matter of individual obligation, its oversight involved communal standards, practices, and monitoring. Thus, to ensure that behaviors associated with sexual morality were observed, colonials were subject to surveillance and denunciation. Although there were numerous temptations, sexual activity within the realm of marriage was only recognized by the Church which argued sexual activity had one goal: procreation.<sup>10</sup> While anyone accused of moral impropriety was investigated, the Church was particularly interested in the sexuality of blacks, Indians and castas, insofar as they were held to be susceptible to sexually scandalous acts which included fornication, concubinage, adultery and sodomy.<sup>11</sup> Such a disregard for morality caused concern for authorities who were charged with keeping the peace.

The control over sexual activity further demonstrated honor's role in maintaining an ordered society. Sexual activity prior to marriage and outside the realm of marriage, especially for women, meant the crossing of lines responsible for sexual constraint. When women were found to be involved in sexual scandals, they were quickly branded as transgressors and gossiped about among female circles. The power of gossip in the colonial period served as a means of social connection between women of all classes.<sup>12</sup> Women often found times and places to meet such as

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9. Asunción Lavrin, "Sexuality in Colonial Mexico: A Church Dilemma," in *Sexuality and Marriage in Colonial Latin America*, Asunción Lavrin (Nebraska: University of Nebraska, 1989), 49.

10. Asunción Lavrin, "Sexuality in Colonial Mexico," 52–53.

11. Peter Wade, *Race and Sex in Latin America* (New York: Pluto Press, 2009), 84.

12. Ralph L Rosnow, and Gary Alan Fine, *Rumor and Gossip: The Social Psychology of Hearsay* (New York: Elsevier, 1976), 4. The difference between rumor and gossip is the

in each other's homes or at the market where could interact with each other unsupervised by men. Considered a female dominated sphere, gossip networks served to "protect and defend communal values and interests." This held especially true for the neighborhood, where women politically used gossip to influence the opinion of others. In criminal cases dealing with sex, women could serve as witnesses. They provided details of a suspected adultery or cohabitation.<sup>13</sup> Gossip further pointed to the importance of outward perceptions and the understanding of honor. For, in an "honor-based culture there was no self-respect independent of the respect of others. . . unless it was confirmed publicly." Honor marked the very essence of ladies and gentlemen in the colonial period and was always "subject to the court of public opinion."<sup>14</sup> In particular, this honor was marked by one's reputation or fama. In Latin America "la fama" or public reputation was understood to be comprehensively what was known about a person. According to Tamar Herzog, public fama was a product of honor that established social categories and one's reputation in virtue of public opinion. Often cited in cases, witnesses would point to the defendant's mala or buena fama. It further protected the guilty if one had "buena fama" or facilitated punishment even of the innocent, if one had "mala fama."<sup>15</sup> The concept of honor was strongest and most widely embraced during the colonial period when the ideas of social discrimination based on race, position, and gender were viewed "as natural and indeed divinely sanctioned."<sup>16</sup>

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following. Rumor is not substantiated or refuted, further there is a quest for clarification and closure. Gossip is small talk with or without a known basis in fact and is motivated by ego and status needs. This paper argues that gossip, rather than rumors, were the main source of spreading scandal.

13. Bernard Capp, *When Gossips Meet: Women, Family, and Neighborhood in Early Modern England* (Oxford: Oxford University Press, 2003), 376–77.

14. Lyman Johnson, and Sonya Lipsett-Rivera, "Introduction," 1–2.

15. Crespo, *Escándalos y delitos*, 41–42; Tamar Herzog, *La administración como un fenómeno social. La justicia penal de la ciudad de Quito (1650–1750)* (Madrid: Constitucionales, 1995).

16. Lyman Johnson, and Sonya Lipsett-Rivera, "Introduction," 14.

In 1786, Francisco Molina and his *criada*, a slave raised in the household of an owner, María de Rosario had been accused of cohabitation and Molina had been sentenced to jail. After serving some time, he requested the court to release him, as he had to take care of his hacienda. In exchange for his freedom he would grant María a *papel de venta*.<sup>17</sup> She would further be under the supervision of the *alcalde de barrio* who would monitor her behavior and make it so that she would no longer have any contact with Molina. In order to restore his honor among his peers, Molina granted María Francisca the ability to be bought by another.<sup>18</sup>

Though her freedom was not ultimately granted, in the effort to restore his reputation and honor among his peers, Molina ultimately let her go. Because she was his *criada*, meaning she had been brought up in the household, a relationship between the two had been cultivated for some time and had eventually resulted in cohabitation. Their relationship demonstrated why the court was not at all lenient in their decision to incarcerate him. The strict lines of racial hierarchy had been crossed and he had committed a dishonorable act. Attempting to live as a married couple insulted the institution of marriage, and defied racial and class boundaries. Ultimately order appeared to be restored by way of granting María a *papel de venta*, but underneath this superficial perception revealed that racial hierarchies were regularly transgressed.

In particular, the concept of *limpieza de sangre*, or clean blood, became pertinent in determining those who possessed privilege and honor and those who did not. In colonial Latin America, those of pure Spanish blood were determined to be at the top of the hierarchical scale, followed by those of mixed blood, Indians, and finally blacks. Honor served as a legitimating instrument for ordering society and curbing potential disruptions. In this regard, honor justified a

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17. Carolina González Undurraga, “Carta de libertad. Aproximaciones sobre la movilidad social de la población esclava en Santiago de Chile, 1700–1810” (Universidad de Chile, 2007), 1. A *papel de venta* was a document that provided information for a potential owner. It provided information that included the physical characteristics of the slave, the price and value of the slave, and contact information for those who would like to buy the slave.

18. Archivo Histórico de la Provincia de Córdoba. Crimen, Legajo 42, Exp. 2 (1786)

stratified system of relationships that clearly defined power relations. This demonstration was quite public as people “showed to the world” their social position and in the end self-worth.<sup>19</sup> Although considered a characteristic that only the upper class possessed, the *gente plebe*, also, had a deeply held sense of honor.

Appropriating many of the same characteristics of the elite, popular classes differentiated themselves along the lines of race, class, gender, and family status. Among popular classes, honor was expressed through individual efforts and merit rather than a bestowed status, which the elite and upper classes emphasized.<sup>20</sup> In particular reputation became a necessity among the popular classes because they lacked economic and political stability. Accusations of being a thief, which “implied they were not economically sound,” or having promiscuous sex often challenged their honor. Quick to react to any threat to their precarious socio-economic position, men violently defended their honor. If they lost their reputation, family ties and neighbor connections were no longer an option. The loss of such connections meant that their economic vulnerability was more exposed and they were less likely to reach out to others for support.<sup>21</sup> The lack of economic stability could easily sway them to rob. The ways of defending their honor proposed that there existed systems of values and norms that were not necessarily identical to the rules which were based in law or ecclesiastical codes.<sup>22</sup>

Honor marked one’s position within society by way of outward perceptions and social acceptance and was used to justify the division of colonial society along class and racial lines. Yet this terminology was very flux and very much dependent on the local context in which it was expressed. During the late colonial period honor had a public/outward appearance that had clear consequences when people did not behave accordingly. Practices involving sexual deviance, then,

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19. Lyman Johnson, and Sonya Lipsett-Rivera, “Introduction,” 15.

20. Putman, “Introduction,” 4.

21. Lyman Johnson, and Sonya Lipsett-Rivera, “Introduction,” 10.

22. Crespo, *Escándalos y delitos*, 22.

brought to light the challenges the Church faced in enforcing its rhetoric, especially among the gente plebe, because the same reasons that kept them out, — the argument that they could not become a part of an honorable society, —facilitated their ability to commit dishonorable acts and sins against the Church. Because they were unable to obtain the higher echelons of society, their sexual relations among them, especially between interracial couples, often appeared to be reminders of domination, but that did not mean that black women could not use sex as leverage to negotiate their social reality.

#### The Exotic Other: The Racialization of Sex

Sex and race formed key elements in the social composition of colonial Latin America. Sexual relations among interracial couples were used to dominate, while race constantly reaffirmed the sexual partner's social position. Reproduction marked the result of these couples' sexual interaction and often reconstituted racial categorizations. Together, sex and race worked in tandem to assure white elite male dominance over all women--white, Indian, black, and castas. How they exercised their dominance differed based on their personal relationship with the female. In dealing with white females, white elite males controlled their women's bodies and in effect their families, "thus keeping control of private property and power in confined circles."<sup>23</sup> This stance was based upon a traditional patriarchal society but it was different for women of color whose experiences made them fall "prey to the white men [elites] depredations."<sup>24</sup> Sexual interactions between white males and women of color also served as a salient reminder of domination.

From the beginning of conquest, sex was used as a source of domination in colonial Latin America. The sexual union between European men and Indian women created the mestizo as a new "race." The mestizo served as an intermediary between the two worlds. Often appropriating the social status of their Spanish fathers, mestizos were capable of rising in the ranks of colonial

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23. Wade, *Race and Sex*, 91.

24. Wade, *Race and Sex*, 58–59.

society. With the introduction of black slaves, another level of domination took place. The sexual union between white men and black women also produced another racial category, the mulatto who did not have access to the privileges attached to the mestizo. As the law stipulated, children automatically took on the social position of their mothers, and so mulatto children born of slave mothers became slaves. To summarize, a racial hierarchy existed in Latin America that proceeded along the following order: whites or Spaniards, mestizos, Indians, mulattos, and blacks. Various sexual unions among these groups, along with a deepening concern among those who occupied the higher tiers for the solidity of their positions, explain how in some regions racial hierarchies reach as far as 20 or more categories.

Sex and race further worked together to legitimate lineage and to determine who possessed privilege and power, and who was excluded. This relationship is of particular importance and can explain why white elite males could have sexual relations with Indian women, sometimes resulting in long term co-habitation, but without entering sacramental marriage; there was too much at stake. The loss of honor, a characteristic bestowed to the elite, meant falling from grace, losing the solidarity of their peers and vitiating socio-economic connections. Among the popular classes, honor was still an important aspect in their lives, and partaking in sexual transgressions meant that they risked losing virtue. As achievements in the political and economic spheres were unattainable to them, they had only their virtue to lose. Elite women maintained their honor by protecting their sexual modesty.<sup>25</sup> Women of color, by contrast, attempted to do the same but their lack of control in some aspects of their lives made this impossible. Relationships between elite men and women of color and in particular among those that who were slaves suggested that “female slaves were sexually available, especially to their masters and other free men.”<sup>26</sup> As a result the illegitimacy rate of these unions was very high and held constant throughout the colonial period.

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25. Mannarelli, *Private Passions and Public Sins*, 5.

26. Mannarelli, *Private Passions and Public Sins*, 36.



Children conceived in such relationships did not receive social recognition, making it particularly difficult for white elite women who found themselves with children outside of marriage. For women of color, however, bearing such children with elite white males allowed for the possibility of social mobility, especially for women who were slaves.<sup>27</sup> Social mobility demonstrated a clear sign that black women could at times negotiate. Children born of relationships between white slave owners and black females posed a potential means to freedom. Written in their wills, or granted via *carta de libertad*, many owners often granted their slaves freedom. The age of 0-15 received the most freedoms granted during the colonial period, 1776-1810, in Córdoba. Trends from the notarial records further suggest that a large proportion of these slaves could have been the owners' children. This practice was seen throughout Latin America. In Brazil, familial bonds and close relationships often associated with the close quarters that were shared by the owner and slave have been attributed to the freeing of the owner's illegitimate children.<sup>28</sup> For example, María de la Cruz, a slave in the Monserratt school, filed for her freedom and that of her daughter (who she had with her owner, Don Marcos Ariza). She had claimed "that her owner Don Marcos Ariza had seduced her and her purity was compromised. In this state, Don Marcos Ariza bought her and she became his slave." An innocent child, she argued, "I looked upon his loving insinuations like a force that could not be avoided. I concurred with his affections and wishes and desired in time the consequent effects, but not being happy with this vagrant love, he had promised me freedom."<sup>29</sup> María, although a slave, still noted her purity, clearly demonstrating she still possessed a sense of honor. Because her honor was violated by her owner,

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27. Wade, *Race and Sex*, 19–20; Ann Twinam, *Public Lives, Private Secrets: Gender, Honor, Sexuality, and Illegitimacy in Colonial Spanish America* (Stanford: Stanford University Press, 1997).

28. Stuart B. Schwartz, "The Manumission of Slaves in Colonial Brazil: Bahia 1684–1745," *Hispanic American Historical Review* 54, no. 4 (1974): 622.

29. Arzobispado Archivo de la Catedral, Juicios Criminales, Exp. 8 (1811)

resulting in a child by him, she was seeking freedom for both herself and her child. Furthermore, the relationship described by María Juana characterized her as an innocent bystander. Subjected to the control of her owner, she became his lover and was tricked by believing that he would set her free. But in time, she found that this promise would not come to fruition and sought to publicly defame him by exposing their intimacy. Public exposure could ultimately bring humiliation and a bad reputation to all of the parties involved; this became the weapon she wielded.

Sex served as a means to dominate and subjugate women of color in the colonial period, further perpetuating the perception of racial hierarchy. It is from this angle, however, that sexual deviance provides a unique lens to test racial hierarchical realities. Characteristics, race and sex, played upon each other. As much as the “other” was often objectified and looked upon with curiosity and sometimes disdain, women of color were also very much exotic and intriguing. These constant temptations were then tested in a society that prided itself on being Catholic and honorable. Signs of these hierarchical powers were constantly put on display and often showcased in every aspect of the city’s life.

#### Public Space: Hierarchical Perceptions of Social Control

The formation and construction of the city of Córdoba, similar to most Latin American colonies, was a part of the larger project to establish European domination and civilization. The city marked a clear spatial divide between what was considered European civilization and Indian savagery. Erected displays of authority, such as the Cathedral and Cabildo, stood as pillars of domination in the Plaza Mayor. These majestic buildings stood to remind the people who often passed through the Plaza that the King and Church, both in Europe, were the ultimate power. Within the city walls, these buildings marked hierarchical status symbols contrasting greatly with the most basic unit of spatial organization, the barrio. The barrio or neighborhood, served as the residence for the majority of the popular classes. At that level, the *alcalde de barrio* was in charge of maintaining peace and tranquility. Through the examination of the *alcalde de barrio* and the

gossip in the barrio, the notion of spatial hierarchy which ultimately represented the State's and Church's attempts at social control was constantly challenged.

The *alcalde de barrio* symbolized control at the most basic level of spatial organization: the neighborhood. In 1785, this position was enacted by the Governor Intendant Marques Sobremonte who argued it was “to maintain good order and police this capital distributed in six districts. [These] Alcaldes are mediums to strengthen the Government's regulations and other benefits that have been established throughout the cities of Europe and America, where they know the conduct of who is living in their appropriate district, the caretaker for various orders, and Justice of the People, which contribute to his ability to observe.”<sup>30</sup> This ordinance set into motion a new practice formulating at the end of the eighteenth century, the strengthening of social control and fiscal responsibility throughout the territories. In the city of Córdoba, the ordinance was used to change various aspects of the city. From a regulatory standpoint, the creation of the *alcalde de barrio* further assisted in dividing the urban space and places, such as neighborhoods that were identified with a name and number. Moreover this practice increased control and facilitated the surveillance of the population.<sup>31</sup> The *alcalde de barrio* then acted as the police as they monitored the behavior of people in their barrio and detained people who were suspected of being involved in crimes. From that standpoint, the change made the *alcalde de barrio* well aware of the happenings within barrios throughout the city.

The city sat in a valley surrounded by natural barriers such as hills and modest mountains and canyons to the south. A river ran to the north and east, and a brook, the Cañada, to the west. The river was a multi-functional space. Central to the life of the city it served as a recreational area where people strolled or went for ride during the day, but which turned into a scandalous place of sexual exploits at night.<sup>32</sup> It further provided a gathering spot for many washer women.

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30. Crespo, *Escándalos y delitos*, 85.

31. Crespo, *Escándalos y delitos*, 85–86.

32. Crespo, *Escándalos y delitos*, 180.

There they would meet up to gossip and discuss the various happenings in their employer's households as well as their neighborhoods. Often meeting during shared labor tasks such as washing, women would exchange tidbits of information concerning their peers, demonstrating that they often knew for some time the sexual transgressions committed throughout their neighborhood. These natural barriers---the mountains, canyons, and the river---further assisted in separating the city from the wilderness. In particular it clearly marked European domination and Indigenous subordination. Carving out a strategic location that could easily be defended from Indian attacks; the city represented a constant reminder of a permanent white presence.

The space between the city's central area and its natural walls, the outskirts, is where the city and the countryside blended creating a space of continuity.<sup>33</sup> There was not a clear rupture, but rather a space in which the two areas morphed into a zone of ambiguity. As an indeterminate spatial element, it contained particular patterns. Its proximity to the city presented its residents as "neighbors," while their activities often revealed more of an ambiguous atmosphere. Not quite outside of the city, but barely part of the city, this area often promoted illicit activities because they were away from the watchful surveillance of the Church and State. For example, in Las Tomas, a section of Indian inhabitants hidden by the darkness of night, forbidden games would occur on some ranches. Illicit friendships and sometimes rape occurred in the city's outskirts too because the area was far removed from the watchful eye of the law, but close enough to maintain a sense of proximity.<sup>34</sup> Quick to disappear when need be living in the outskirts of the city facilitated the escape of criminals and wrongdoers as they easily could run away to the mountains.

This was the case of Santiago Rearte, a mulato, who along with his lover, María Francisca Aguero, constantly found ways to evade the authorities. Even after being caught for cohabitation, he still found ways to escape out of jail and reunite with María Francisca. Being

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33. Crespo, *Escándalos y delitos*, 177.

34. Crespo, *Escándalos y delitos*, 180.

caught on various occasions did not stop Santiago Rearte, a mulato, and María Francisca from cohabiting. Witnesses had accused them of living together for three to four years. For four years they had initially lived together before being caught, for which at that time, the judge ordered that María be put into a *casa de deposito*. (Places where single women who had babies or those who had been involved in sexual scandals, *casa de depositos* were charged with the responsibility to teach women Christian values before they were allowed to reenter society.) A few days later, Santiago found her and “robbed” her from the *casa de deposito*. Upon her escape, they then moved locations and found another place to live until they were captured again and brought forth to trial for a second time.<sup>35</sup> Living on the outskirts promoted a spatial ambiguity that allowed for constant freedoms to move about especially when it came to evading the police.

In contrast to areas of spatial ambiguity, the Plaza Mayor, located in the city’s center, stood as the hub of power, prestige, and communications. The centrally situated plaza represented social order and mapped out the relationships between the Church and King, on one hand, and those they governed on the other.<sup>36</sup> In the Plaza Mayor, the most obviously represented powers were the Cathedral and the Cabildo. These spatial symbols served as constant reminders of power, and their location along the Plaza Mayor made them universally visible by cordobeses of all social stations. Because of the plaza’s location, it provided a vital means of exchange and communication since everyone had to pass through it at some point. It constituted the most used and lived environment. An open space, the plaza was “reserved for diverse and highly symbolic activities for the cultural identity of the city.” In many respects, the plaza became a “celebratory and educational theater,” where the status quo reaffirmed socio-economic status and constituted confirmation by others.<sup>37</sup> These acts of affirmation supported the idea that, on a theoretical and

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35. AHPC. Crimen, 42, Exp. 2 (1805)

36. Carlos A. Page, *El espacio público en las ciudades hispanoamericanas: El caso de Córdoba (Argentina) Siglos XVI a XVIII* (Córdoba, Argentina: Báez Ediciones, 2008), 338.

37. Alvaro Félix Bolaños, “A Place to Live, a Place to Think, and a Place to Die: Sixteenth Century Frontier Cities, Plazas, and ‘Relaciones’ in Spanish America,” in *Mapping Colonial*

superficial level, colonial society was rigidly hierarchical. It also meant that those who did not fit in a given category need not attempt entry.

The most prestigious and powerful members of the community lived closest to the Plaza Mayor, and social stratification was represented by distance away from the plaza. Outside of the Plaza Mayor and its surroundings, smaller plazas dotted the city, creating various barrios and communities. The barrio or neighborhood was the simplest level of spatial organization and hierarchy in the city. In these small barrios, communities developed similar to the Plaza Mayor though on a miniature scale. Prominent families lived close to the plaza reaffirming their social status and familial connections while the more popular classes lived on the periphery. Often related and in control, the well connected elite ran the socio-political structures of the barrio in tandem with the alcalde de barrio and the police.

Composed of people with similar socio-economic backgrounds, barrios were the heart of Córdoba. Each neighborhood contained its own economic center including butchers, bakers, and blacksmiths. There was no need to leave one's barrio as most immediate needs were locally met. As people often interacted with each other on a daily basis, personal relationships were formed and cemented not only at the individual level, but at familial level too. Some familial connections extended through generations. These interpersonal relationships represented social order and hierarchy among the gente plebe. These relationships also determined what types of behavior would be tolerated and which would be condemned.

What was done or said was constantly available for the public to observe and judge. The morality of people became a constant source of surveillance. Watchful eyes made sure that the "common good" of the neighborhood was the priority. The housing afforded to popular classes made it so very little privacy existed. They were often just simple huts or rooms that were next to each other and separated by uninhabited solares. Close quarters meant that the people shared a lot

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*Spanish America: Places Commonplaces of Identity, Culture, and Experience*, Santa and Mariselle Meléndez Arias (London: Associated University Presses, 2002), 285.

of public facilities such as finding and sharing hot barter to make mate (a drink made from yerba, a plant found in the plains of Argentina), to make fire, or to wash clothes. Very little could go unnoticed by the “public gaze” of the neighborhood.<sup>38</sup> The gaze of the public could easily transform into the public voice, thus giving rise to rumors and gossip that could positively enhance one’s fama or negatively destroy one’s reputation. The public voice went with the idea of public space. In general, most public areas were very specific; the street and plaza, gambling houses, even natural barriers such as the river acted as contact zones for the public voice to operate. At these open affairs, women in particular would exchange pieces of information that were vital to their own lives as well as exposing the news of their neighborhoods.<sup>39</sup> Through this system of exchange, women became key players in networking information.

Females at all socio-economic levels were key players in spreading gossip. In fact, the gossip functioned as a news reel with constant updates. For an elite woman, this meant that she could hopefully learn information that would benefit her family’s social position. Sometimes this was the result of another person falling from the neighborhood’s graces. The place of gossip for them was inside of the domestic sphere, often a home or a friend’s house. For the popular classes, meeting in physical places was quite open such as the river to wash clothes, or the market and street where they sold various textiles. Still attempting to keep their family’s virtue intact they also were found to have more flexibility. In the open air, under watchful eyes, women laborers gathered together to accomplish tasks but also exchange tidbits of information. This information could be gossip about their employees or their fellow neighbors in the barrio.

The dealings of the neighborhood meant that no one was immune to a watchful neighbor’s gaze. All people of the neighborhood knew their position and role in the barrio, and also that of others and how they could further describe their socio-economic positions with

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38. Crespo, *Escándalos y delitos*, 190–91.

39. Crespo, *Escándalos y delitos*, 281–83.

others.<sup>40</sup> In this context, it was crucial to be well-liked by their peers and have a good reputation, as that standing not only gave you a position in society, but it also provided some flexibility if one was caught in the barrio doing something that went against the barrio's code of behavior. In this way, the neighborhood functioned in the broader sense of a community that established guidelines for behavior and sanctioned and corrected any potential scandal that altered the established social order.<sup>41</sup> The same people in the community also served as witnesses in sex cases as they often knew the defendants on a personal level, having been more than likely their neighbors.

Revisiting the case involving Santiago Rearte, a mulato, and María Francisca Agüero, the defamation of Santiago's character was called into question by the Defensor de los Pobres. Besides being accused of cohabiting with María Francisca, the official reasoning behind the trial, witnesses also claimed that he often robbed haciendas and constantly got into fights with others including his own brother. Noted to be a danger to society because he lacked the fear of God, the strength of witnesses' accounts assisted in his conviction. "In order to avoid and separate this cohabitation he had... with Francisca Agüero and to punish him for his tendency to rob and insult many" the court sentenced him to five years and Francisca received six months in jail and work for a family.<sup>42</sup>

Arguing that the punishment was too excessive, Santiago and María opted for a Defensor de los Pobres who fought for a reduced sentence. Admitting to their cohabitation, the Defensor de los Pobres first appeared to use guilt as a means to argue for forgiveness to reduce the five year sentence. This defense was especially used since the result of their cohabitation led to two children who also served as witnesses. But Santiago was not quick to admit guilt to the supposed robberies and fights. In that regard, he directly challenged the credibility of the witnesses. He

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40. Crespo, *Escándalos y delitos*, 197.

41. Crespo, *Escándalos y delitos*, 198.

42. AHPC. Crimen, 42, Exp. 2 (1805)



stated the trivial crimes that he had been accused of were only based “upon hearsay or the public voice (gossip), but nothing based on witnesses' constant certainty, all that [was] left [were] the memories... [which had] no value.”<sup>43</sup> Purposefully attacking the witnesses, the Defensor attempted to argue that these additional charges were dubious and possibly based on personal motive that had no merit. Ultimately, the Defensor’s argument succeeded. Santiago was sentenced to one month in chains after which he would become a servant with no determinate time given. He, along with María, would also have to go the annual confession at the Church. Nevertheless, such direct attacks on the witnesses made by the Defensor demonstrated the strength of gossip and its ability to shape a person’s reputation in the barrio. As there was a constant surveillance, one had little opportunity to hide.

At the barrio level, the most basic unit of spatial organization in the colonial period, various enclaves of social interaction took place throughout the city. Barrio politics determined the rules of conduct and when someone violated them, there were often swift punishments leading, if need be, to the ultimate punishment, complete rejection from the neighborhood. By making its own rules that fixed the socio-economic realities, the neighborhood became of particular importance in knowing and seeing all and thus formatting its own rules and regulations. This stood in contrast to the official rhetoric of the Cabildo and Catedral, the two main perceptions of social control, clearly placed in the Plaza Mayor. The Church stood as a symbol of the moral authority and the Cabildo served as a constant reminder of the State’s authority. Plaza Mayor was a constant reminder of European domination via the space that it occupied. Examination of the quotidian life at the barrio indicates that social control and the rules of the moral authority were often violated. Even with the alcalde de barrio’s watchful surveillance, people still found ways to live their lives according to their own rules as long as they did not violate the barrio.

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43. AHPC. Crimen, 42, Exp. 2 (1805)

## The Transgression of Social Control and Moral Authority

Sexual scandals involving people of color provide a unique lens for understanding the transgression of racial and spatial hierarchies. Sexual relations outside of marriage were considered criminal activities because they were mortal sins and went against the common good of the community. In particular, the fact that this often private affair was brought to light further described the power of the public voice when referring to the cohabitation, illicit friendships, and adultery.<sup>44</sup> All of these sexual exploits crossed different spheres of racial hierarchies. The crossing of racial hierarchy demonstrated an important factor in regards to morality and honor among people of color. Considered to have little or no morality by elites, the people of color's sexual innuendoes were no surprise, as they were fulfilling an already known stereotype.<sup>45</sup> This held especially true for women of color which further highlighted a distinct class division among women in the colonial period.

All women had the duty to remain sexually pure. Those that did not were chastised for breaking moral codes of conduct. However, lack of the ability to assure their sexual purity meant that women of color reflected the social perceptions that marked class distinctions between black women and their white elite counterparts. Social standing then meant that white elite women had more to protect in regards to their reputation. Falling from the grace of their peers would ultimately destroy their reputation in society. This notion is less applicable to free women of color and especially slave women. Women of color were considered to not have anything to protect and were often at the whims of men. Slave women in particular had to deal with their owner's advances which only perpetuated the idea that she was not in control of her sexual identity. This, however, does not mean she was a victim, but rather, a survivor and had a certain level of agency that was envied by white female elites.

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44. Crespo, *Escándalos y delitos*, 26.

45. Mannarelli, *Private Passions and Public Sins*, 40.

Women of color were constantly exposed to public spaces in their quotidian lives. Whether a domestic slave who worked in the home, or a woman selling her products in the market, they were always defying various spatial notions of hierarchy. For example, free women of color would often work in the homes of elites which could be close to the Plaza Mayor, while living on the other side of town, usually in a barrio close to the outskirts of the city and countryside. Working and living in two distinct spheres of association made it so that black women constantly crossed spatial barriers. Moreover, slave women often sold products in the streets and that meant she had mobile flexibility. Again she was exposed to public space and crossed the lines of spatial hierarchy. Between these two worlds, women of color learned how to survive in a society that very much limited their access to political and economic power. One way to subvert the system was to use their sexuality, and form relationships counter to the status quo.

Couples of unequal racial and class statuses often engaged in cohabitation in Córdoba. Elite white men and women of color from popular classes often engaged in relationships. But the opposite was also true; a few free colored men were found to be with white women. For example a pardo, Gabino Santellan, was caught cohabiting with Doña María Bernacia Casa who was promised to Don Pedro Luis Alday. A scandal at various levels, the case clearly demonstrated that the colonial patriarchal system had been gravely challenged. Not only his lover a white female, but Santellan boldly slept with an elite member of society who was already promised to another prominent member. Racial and class barriers were challenged in this case and proved that the transgression of hierarchal powers did occur. For his crime, Santellan was sentenced to jail.<sup>46</sup>

In order for a case to come in front of a judge, someone had to inform the ecclesiastical or civil authorities of the illicit activities. In colonial Córdoba, few sex scandal cases existed, but that did not mean it was not a common occurrence. People from the same barrio, and often their neighbors, easily noted that the accused couples were involved sexually. A woman who visited a man's house "after hours" or vice versa, or if either of them visited the house frequently, could

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46. Archivo Histórico de la Provincia de Córdoba. Crimen, Legajo 125, Exp.12 (1814).

lead to gossip that they were more than just platonic friends or workers. Further “proof” of sexual deviance was if the couple ate or slept together in the same place.<sup>47</sup>

In 1795, Don Josef Castro was put on the stand to defend the reasoning upon which Segunda, a *parda libre*, who was married, was found in his room. The *alcalde de barrio* along with other key witnesses had placed them both in his room in the middle of night, with the doors locked and without any light. Out of fear of being caught, the *alcalde* argued he saw Segunda flee from Don Castro’s room. At first Don Castro denied that he even knew why the court authorities had brought him before a judge. Then he changed his story to acknowledge that, yes, Segunda was there, but it was like any other night or day, as she had often frequented the house. This time, however, she was sick and so he was attempting to assist her with the lights on.

Segunda then took the stand and she corroborated his story arguing that she had been in his room but that she had not left upon the knock of the door. Moreover, she did not know who was knocking on the door. The fact that she was at his house was not a problem. Furthermore, she claimed whenever she visited him, she always went when there were other people at the home. Both vehemently denied any wrongdoing. Nevertheless, through the process of interrogation, Segunda was found to not only transgress racial and spatial hierarchies, but she was also a married woman. Vincente Perdernera, a freed man, came to defend his wife, Segunda, arguing “the Reynato laws prohibit this type of crime against married women, whether it be an accusation or injury.”<sup>48</sup> Perdernera’s argument demonstrated that above all else, Segunda was his affair to handle, perpetuating the idea that she did not have a choice in the matter. Furthermore, Don Castro should be the one punished because he had preyed on Perdernera’s “territory.” The end result of this case was that both Don Castro and Segunda were declared innocent and avoided any punishment.<sup>49</sup>

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47. Archivo Histórico de la Provincia de Córdoba. Crimen, Legajo 105, Exp. 24 (1806).

48. AHPC. Crimen, 105, Exp. 24 (1806)

49. AHPC. Crimen, 105, Exp. 24 (1806)

In colonial Córdoba, criminal cases involving people of color in sexual scandals were often cases of cohabitation. Cohabitation lasted for years. A case involving José, a slave, and Juana María, an Indian, revealed that they lived together for eight years. For five years they had lived without the intervention of the authorities. After finding out that he was married to a woman in the city, they placed Juana María in the *casa de deposito* (a place in which women could go to become morally pure). This, however, did not stop the couple from reuniting. After two days of being in the *casa de deposito*, José stole her and they ran away and lived in the countryside away from the watchful eyes of the city authorities and police. He was later caught and was incarcerated. When his owner, Don Esteban Palacios posted bail for him, he again broke the law and found Juana and lived in the countryside for another six months.<sup>50</sup>

The longevity of this couple demonstrated what lengths people took to be with whom they chose regardless of the legal ramifications and social stigma attached to breaking the status quo. In order to escape the authorities, José and Juana María found solace in the countryside. The ability to constantly move allowed for their cohabitation to continue. These couples could easily evade the police, moving from the city to the countryside, even as far as the mountains where other misfits resided. José's ability to avert the authorities on more than one occasion also revealed that social networks were wide and effective. But while he was away, Juana María like many women in her position was often left alone for long periods of time unless they too were caught. Forced to survive by themselves, these renegade women became the sole care taker of their children. They also had to maintain the house until their lovers returned.<sup>51</sup> These gender realities further pushed and challenged the patriarchal systems of control that were exhibited throughout the colonial period. Becoming the head of the house meant she had crossed gender roles.

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50. Archivo Histórico de la Provincia de Córdoba. Crimen, Legajo 73, Exp. 3 (1796)

51. Ambroggio, "Amancebamientos y escándalos," 122–3.

Sexual scandals were rarely reported although; the occurrence of cohabitation was quite common. According to Eugenia Ambroggio, in colonial Córdoba, cases of cohabitation came before the court because they had crossed a moral line that their peers could no longer tolerate. In 1792, Juan Panchuga, an Indian, and a mulata (no name given) were accused of living together. Noting that they had offended the barrio, the opening statement argued that they had to be punished. The involved couples' affair was not the main contested issue, but rather that she was a married woman partaking in this scandal. Witnesses also argued they were quite public about it, as they often seen around the city and he would get in fights over her. Having already been caught once for the same scandal, Juan still proceeded to disobey authorities.<sup>52</sup> For these reasons the neighborhood took issue with this couples' cohabitation. The blatant disregard for the institution of marriage and public displays of unruliness caused alarm and distress among the neighborhood, making it so the only way to quell such an activity was to report it to the authorities. They were not only hurting themselves, but their transgression had caused pain to others in the neighborhood and the community stepped in to counteract their lack of compassion and discipline. In this respect, the barrio was patrolling and controlling their own territory assuring that their own code of honor was not broken.<sup>53</sup>

Already considered a sin against the moral authority, neighbors often looked the other way unless the couple in question committed other crimes such as robberies or their sexual scandal, such as adultery, caused more harm than good to the community. The fact that couples illegitimately lived together did not mean much and only if they committed other criminal acts which the community deemed a threat to the codes of conduct, were they reported. In some respects, accusing and further capturing people for the crime of consensual sex outside of marriage could have been a means to an end; stemming from the realization that they could not capture them for their other crimes such as robbery or adultery.

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52. Archivo Histórico de la Provincia de Córdoba. Crimen, Legajo 55, Exp. 5 (1792)

53. Ambroggio, "Amancebamientos y escándalos," 127.

The barrio, the most basic unit of city planning, created its own codes of conduct that did not necessarily abide by the hierarchical structures of the State and Church. The examination of reported sexual scandals revealed that the barrio often tolerated cohabitation, a contrast to the State and Church. Yet, there were still limits. Once a person committed acts that caused harm to others in the community, the barrio went to officials. It is this ambivalence towards the State and Church that allowed for spaces of negotiation and the transgression of racial and spatial hierarchies.

### Conclusion

The same hierarchical structures that maintained defined places in the social and status terrain, race and space, often led to keeping the majority from obtaining socio-economic power in the colonial period. The top was reserved for heads of state and church, which were phenotypically white and male. The majority, however, still found ways to obtain various levels of social mobility. It is through this lens that this chapter has challenged the concept of a strictly hierarchical divided society, by way of sexual transgression. The examination of sexual scandals involving people of color, and in particular women, revealed they were able to negotiate their social identity.

Sexual relations outside the realm of marriage were a common occurrence although the moral authority, the Church, argued it was a moral sin. Crossing spatial and racial barriers, sex served as a way to dominate the “other,” but also for the “other” to negotiate one’s identity. In amorous relationships involving white males and black females, women could use their illegitimate relationship as a defense in cases involving their freedom or that of her children. In instances of cohabitation, both went against the status quo of living together outside the sanctity of marriage. Cohabitation allowed for women to experience various levels of independence, as they often were left to care for the homes and children while men were gone. Negotiating identities between the realms of spatial and racial hierarchies ultimately proved that the perception of a hierarchical society, based on color and class divisions, was often contested and transgressed.

## CHAPTER 2

### Divinely Favored to the Individually Selected

“It would not be impossible, but very difficult to find someone, but not being happy [with me] he will later look upon me with indifference, and satisfy his appetites,” Lucía Toledo, a white female, proclaimed in court in 1821. But she had found Miguel de Seña, a slave and the father of her unborn child, who was “equal in her quality,” and “sure to receive his freedom.” Before a judge, she defended her right to marry whomever she wanted, despite her mother’s disapproval.<sup>1</sup> Taking into account that any potential suitor from her class did not guarantee her happiness, she argued against a sentence of future regret, and focused instead on her right to choose her marriage partner.

Such a protection of free will or freedom of consent has often been trumped by what scholars have interpreted as liberal ideology that promoted individualism during the national period. The application of this concept in Spanish America, however, did not have its origins in liberalism but rather traces its intellectual development to much earlier. Considered a sacred and legitimate bond, marriage in colonial Spanish America bestowed privilege, and divinely favored couples. As the protector of free will, the Church argued that no one should stop couples who wanted to marry, as that would be an act against God and “what God has joined together, man cannot put asunder.”<sup>2</sup> Regardless of the familial politics involved, couples would be free to choose their life partner.

Only in the late eighteenth century did the State successfully confront the religious sanctity of free will. The State enacted a series of laws known as the Bourbon Reforms in which

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1. Archivo Histórico de la Provincia de Córdoba Escribanía 3, Legajo 20, Exp. 6 (1821).

2. Rev. Dennis J. Burns, “Matrimonial Indissolubility: Contrary Conditions: A Historical Synopsis and a Commentary,” *Canon Law Studies* 377 (1963): 48. The Catholic University of America.



the Royal Pragmatic of 1776 directly affected the institution of marriage.<sup>3</sup> These laws revealed the Crown's commitment to retake control of a kingdom that was increasingly seen by royal officials as resistant to imperial political authority and financial needs. A majority casta population- approximately 60% of the total population in the city of Córdoba in 1778- further illustrated a fear of losing socio-political control for the minority elite white population.<sup>4</sup> Socio-political power was enhanced by familial networks, which were often cemented through marriage. Because of this crucial bond, “unequal marriages” undermined social and political hierarchies. Unequal marriages included class discrepancies, religious differences, and interracial couples.

The post-colonial period, however, under the influence of liberalism promoted a raceless citizen. Marked by a more individualistic society, choice became a defining factor predicated on the concept of free will. Consequently, the freedom to choose marriage partners cemented its recognition from the colonial period and the Court often ruled in favor of interracial couples. Free will, originally a protectorate under the Church in the colonial period, continued to be an important concept in the national period. The Church, however, did not serve as its protector in the national period, but rather individuals argued that they had the right to choose their marriage partner.

#### The Divinely Favored: The Church's Protection of Free Will

“Both the betrothals and the nuptials must be free of coercion . . . since marriage must be altogether free,” Pope Gregory IX stated in the thirteenth century.<sup>5</sup> With that statement the Church had clearly defined the basis for freedom of choice within the institution of marriage.<sup>6</sup>

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3. Jay Kinsbruner, *Independence in Spanish America: Civil Wars, Revolutions, and Underdevelopment* (Albuquerque: University of New Mexico Press, 2000).

4. Turkovic, “Race Relations,” 73.

5. Rev. Chester F. Wrzaszczak, “The Betrothal Contract in the Code of Canon Law,” *The Catholic University of America Canon Law Studies*, no. 326 (1954): 41 Washington, D.C: The Catholic University of America, 1954.

6. Rev. Chester F. Wrzaszczak, “The Betrothal Contract,” 6.

Consent was further defined as a will that had to be “given freely, simultaneously, and reciprocally.” It implied that the individuals be both psychologically and physically fit to enter marriage; and further, for the legality of the contract, that the parties be free of all impediments. This divine dispensation set the tone for the Church’s claim of jurisdiction over the right of marriage. The Church argued the “sacred character of marriage” combined both the contract and sacrament and could not be separated, and for that reason “such matters were outside the scope” of the State. Matters of a “sacred nature” dealt with the divine and represented a category “apart from things of the world.” Worldly matters dealt with the civil order of marriage and included dowries, hereditary, and legalities surrounding the union.<sup>7</sup>

Later in the sixteenth century, the Council of Trent (1574) upheld the Church’s control over marriage, and made it a sacrament. Besides acknowledging marriage’s divine act, this measure had political reasons. It firmly placed marriage within the jurisdiction of the Catholic Church, in attempts to quell the Reformers opposition, who denied marriage as a sacrament, arguing it was a “purely secular contract,” and thus belonged to the State.<sup>8</sup> The Reformers’ claim that marriage relied outside the jurisdiction of the Church challenged the absolute authority of the Catholic Church. In order to reinforce their position, the Council decreed: “if any one says that matrimonial causes do not belong to ecclesiastical judges, let him be anathema.”<sup>9</sup> Furthermore, making marriage a sacrament established the Catholic Church’s supremacy on the matter. It declared “if anyone says that matrimony is not truly and properly one of the seven sacraments of the evangelical law, instituted by Christ the Lord, but has been devised by men in the Church and

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7. J. William Goldsmith, “The Competence of Church and State Over Marriage-Disputed Points,” *The Catholic University of America Canon Law Studies* 197 (1944): 5The Catholic University of America Press.

8. Goldsmith, “The Competence of Church and State,” 13–14.

9. Rev. H.J Schroeder, *Canons and Decrees of the Council of Trent: English Translation* (Rockford, IL: Tan Books and Publishers, 1978), 182.

does not confer grace, let them be anathema.”<sup>10</sup> Such a bold stance clearly defined the position of the Catholic Church against its adversaries.

As a strong Catholic state in the sixteenth century, Spain supported the Council of Trent’s decision to make marriage a sacrament. The sacrament of marriage supported the cultural belief that “God himself was on the side of children as a young person’s inclination was a manifestation of God’s plan. Parents were moral beings who therefore lacked authority to interfere with what God had created, or His plans for a young person.”<sup>11</sup> Couples should have the right to choose their marriage partner without parental interference.

In Spanish American territories, the Church remained in control of marriages and protected the right to choose freely one’s marriage partner. Nevertheless, the Church was observed to “insufficiently assist cases involving blacks, castas, servants, and slaves . . . in comparison to their Spanish counterparts.” In colonial Mexico, Patricia Seed noted that 74 percent of white males marriages were contested, but only 40 percent were denied; 68 percent of white female marriages were contested, but only 24 percent were denied; and less than a quarter of all contested marriages involved castas, but 40 percent of these marriages were prevented.<sup>12</sup> The Church continued to uphold racial prejudices that often limited the social mobility of castas. Upholding racial prejudices suggest that although the Church fought for couples to have the right to choose their partners, it was not detached from the conditions and ramifications of a racial and class-based society.

By the mid-eighteenth century, colonial attitudes towards free will had changed because couples regretted their decisions to marry. Parents started to argue that love and free will were unstable emotions.<sup>13</sup> This skepticism stemmed from men who changed their minds after pledging

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10. Schroeder, *Canons and Decrees*, 181.

11. Patricia Seed, *To Love, Honor and Obey in Colonial Mexico: Conflicts Over Marriage Choice, 1574–1821* (Stanford: Stanford University Press, 1988), 39.

12. Seed, *To Love, Honor and Obey*, 81–82.

13. Seed, *To Love, Honor and Obey*, 109–10.

to marry, turning their vows of engagement, or *palabra de casamiento*, into a scandal.<sup>14</sup> Reasons given for changing of minds, such as ignorance or immaturity, “undermined the idea that one was responsible for one’s own behavior.”<sup>15</sup> As couples came to the conclusion that they had made a mistake, parents argued they had better judgment and wisdom to select appropriate mates for their children. Such actions questioned the notion of “free will,” and challenged the Church’s jurisdiction over marriage.

As early as the end of the seventeenth century, the Spanish Crown restricted the Church’s ability to call in the royal police. This custom had existed since the sixteenth century in the Indies and was used to enforce ecclesiastical orders. The royal police often protected a couple’s interests. They “stood before dozens of homes . . . and ordered the residents to allow young men and women to be released into the custody of the Church so that they might state their desire to marry.”<sup>16</sup> The ability to call on the royal police revealed the blurred and often contested jurisdictions of Church and State in the colonial period. Yet, when and if the State perceived the Church to be too autonomous it restricted its power serving as a constant reminder that the State had ultimate control.

Under pressure from the Crown, the Church took measures to curb its perceived autonomous practices. As early as 1690, the Church ended its practice of secretly marrying couples, and by the 1730s, it no longer interfered in familial decisions regarding marriage partners. In the 1740s, “temporary custody was still granted but if the parents protested,” church officials withdrew. As a result, there was a sharp upswing in the number of marriages prevented by means that had been previously regarded by the Church “as unjust and malicious.” Its final

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14. Asunción Lavrin, ed., *Sexuality and Marriage in Colonial Latin America* (Nebraska: University of Nebraska Press, 1989), 6. *Palabra de casamiento* initiated regular and irregular relations between colonial men and women. This is based upon *Siete Partidas* in which the Church argued “if a carnal union took place after the future promise whether with or without the intervention of the Church, the marriage was consummated and binding.”

15. Seed, *To Love, Honor and Obey*, 109–12.

16. Seed, *To Love, Honor and Obey*, 162.

and most important reform was to treat pre-nuptial conflicts as private rather than public affairs.<sup>17</sup> Containing pre-nuptial affairs to the families' domains allowed parents to have more influence over their children's decision to marry. Such actions represented the Church's attempts to compromise with the Crown without losing jurisdiction over the institution of marriage. The Church, however, would not sway on its commitment to protecting free will, which gave couples the right to choose who they wanted to marry. But the Crown did not find these actions to be effective. By the end of the eighteenth century, the State took a more abrupt approach. Fearful of losing control over its territories, the State enacted a series of reforms. The Bourbon Reforms, a comprehensive array of regulations, began to be applied to Spain's American possessions in the 1760s and aimed to reorganize colonial administration and reestablish the Crown's authority. One of these reforms included the Royal Pragmatic of 1776 that directly attacked the Church's jurisdiction of marriage.

#### The State's Intervention: Royal Pragmatic of 1776

"Having become so frequent the abuse of unequal marriages," King Charles III declared, it "offensive to God. . . ." would only "result in the turbulence of the good order of the State."<sup>18</sup> In order to counter an increase in unequal marriages, he enacted the Royal Pragmatic of 1776, which required adults younger than 25 years of age to receive permission from their parents in order to be married when there was a question of inequality between the fiancés.<sup>19</sup> No longer trusting the Church's stance on free will, the Pragmatic signified the State's concern for the social welfare of the Kingdom. The law would trump choice in order to preserve its authority and reign. Similar to a father who had been bestowed the natural right to take care and maintain his family, the King shared paternal responsibilities for taking care of his fellow subjects in the Spanish Empire.

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17. Seed, *To Love, Honor and Obey*, 186, 188.

18. Archivo Histórico de la Provincia de Córdoba, Real Pragmática de 23 de marzo de 1776 y Cédula Real de 7 de abril de 1778 Legajo 97, Exp. 8 (1778).

19. Archivo Histórico de la Provincia de Córdoba, Real Pragmática de 23 de marzo de 1776 y Cédula Real de 7 de abril de 1778 Legajo 97, Exp. 8; Steinar Saether, "Bourbon Absolutism and Marriage Reform in Late Colonial Spanish America," *The Americas* 59, no. 4 (April 2003): 477.

In particular, the Pragmatic of 1776 was of personal interest to King Charles III as he found his own family in a precarious position after the marriage of his brother Luis Antonio de Borbón. The marriage threatened the heredity line and status of the royal family, because she was not of equal status to him. In order to counteract Luis's decision and protect the royal family's interests, the marriage was eventually allowed but with strict conditions. "The prince and his wife would live away from the court, only the prince could visit the palace . . . and his wife or any of her descendants would not have any honorable, heritage, or property rights."<sup>20</sup> Careful not to anger conservative Catholic sectors, the Crown made sure to cast jurisdictional changes in the best light. In fact, the King incorporated the Church in the Pragmatic, stating that "he would leave unharmed the ecclesiastical authority and canon dispositions of marriage" thus ensuring that "the spiritual effects" of marriage would be maintained.<sup>21</sup> Such wording allowed the Church to maintain jurisdiction over the sanctity of marriage as a spiritual act, and thus marriage could remain within the Church's cultural boundaries. But any disputes concerning the choice of marriage partners would no longer take place in an exclusive ecclesiastical system but rather within the civil courts.

The Pragmatic challenged the Church's legal and cultural boundaries. It was put forth to "rejuvenize a rational and patriarchal order, which was weakened by the tridentine perspective on marriage as a sacrament," and "its emphasis on the moral and spiritual aspects of the institution."<sup>22</sup> Marriage had been considered a divine act that only God and the Church could oversee. But the Pragmatic transgressed this tradition allowing the State to have the final say. So long as both families were satisfied with the marriage choice of their children, the State would not be involved. If however there was a questionable doubt, the State would decide the fate of the couple.

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20. Saether, "Bourbon Absolutism," 477.

21. Archivo Histórico de la Provincia de Córdoba, Real Pragmática de 23 de marzo de 1776 y Cédula Real de 7 de abril de 1778 Legajo 97, Exp. 8.

22. Saether, "Bourbon Absolutism," 487.

In Spanish America, the Royal Pragmatic was enacted two years later known as the 1778 Royal cédula. The Royal Pragmatic corollary, made slight modifications to incorporate the cultural context of the Americas. It included race. The original Pragmatic incorporated nearly the entire social spectrum, from “the highest classes of the State, without any exceptions whatsoever, to the commonest of the people, because everyone by natural and divine law had the indispensable and natural obligation to respect their Fathers.”<sup>23</sup> The 1778 cédula, however clearly defined what racial groups would be incorporated. It excluded people of African descent, as they were often associated with dishonorable practices such as having illegitimate children. Indians, however, were included. Cultural practices weighed heavily on royal policy-making, which was differentiated by racial categories. Tributary Indians “could obtain consent from their parish priest if it was impossible to obtain it from their fathers;” and “Indian caciques, because of their nobility, were considered to be distinguished Spaniards,” and included in the cédula’s policies. These adjustments revealed how the State discriminated between its Indian and black populations. Indians had played a crucial role during the conquest and continued territorial expansion; they had served as cultural and social intermediaries. In particular, high ranking Indians would marry their daughters to Spaniards making them legally equal. “She” served a crucial intermediary role in colonization project as the children resulting from her union with Spaniard men would be of both cultures and used to further subdue other Indians. In turn, by marrying the daughter of a cacique, Spaniards could continue to claim legitimacy at the same time that a certain segment of the Indian population could become “distinguished Spaniards.”

The inclusion of Indians and the exclusion of blacks in the Royal cédula aligned with class status in Córdoba, Argentina. In Córdoba, race was an unspoken cultural barrier, although interracial children abounded. The large amount of interracial children demonstrated that racial barriers were often transgressed, even if that did not result in marriage. In comparison to the

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23. Archivo Histórico de la Provincia de Córdoba, Real Pragmática de 23 de marzo de 1776 y Cédula Real de 7 de abril de 1778 Legajo 97, Exp. 8.

white population, slaves and castas had higher rates of illegitimacy which attested to their lower rates of marriage. For the white population of Córdoba, illegitimacy rates between 1778 and 1784 reached 45%, but then fell to 12.9% by 1840. For the casta population, by contrast, high illegitimacy rates persisted from the late 1770s through first decades of the nineteenth century, averaging 53.7%; and then, by 1840, there was a slight decrease to 45.7%.<sup>24</sup>

The term “unequal marriages,” used in the original Pragmatic, was maintained in the 1778 cédula. However, it was defined loosely, leaving Spanish Americans with a wide interpretive berth. Scholars who argue race as a key definition of “unequal couples” in the Pragmatic are considered to be “social hierarchists.”<sup>25</sup> But, according to Steiner Saether, neither the Pragmatic nor the 1778 cédula, the Royal Pragmatic’s corollary, specified which unions were “unequal to merit parental dissent or clarify whether inequality should be measured in terms of wealth, morality, social status, race, genealogy, or other social indicators, that was left to the local context.”<sup>26</sup> Saether, however, based his arguments on the understanding of the legislation within the realm of the Peninsular experience, and did not focus on the cédula’s regional applications.

Based on marriage dissent cases, racial differences in Córdoba became increasingly relevant and used as a reason to prevent interracial marriages. Of 1151 marriages examined from 1776-1853, most couples were racially endogamous. Córdoba’s conservative society rarely allowed for interracial couples to marry. Only four couples were noted as being interracial during this period. A white male married a female *parda*, two white females married male *pardos*, and

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24. Dora Celton, “Selección matrimonial y mestizaje en Córdoba,” *III Jornadas de Historia de Córdoba, Junta Provincial de Historia de Córdoba* (1997): 336.

25. Kathryn A Sloan, *Runaway Daughters: Seduction, Elopement, and Honor in Nineteenth Century Mexico* (Albuquerque: University of New Mexico Press, 2008); Seed, *To Love, Honor and Obey*; Susan M Socolow, “Acceptable Partners: Marriage Choice in Colonial Argentina 1778–1810,” in *Sexuality and Marriage in Colonial Latin America*, Lavrin Asunción (Lincoln: University of Nebraska Press, 1989), 209–51.

26. Saether, “Bourbon Absolutism,” 493–94.



one white female married an unidentified male.<sup>27</sup> The high and persistent illegitimacy rates among castas suggest that close quarters afforded in the city did not prohibit various sexual unions. Instead it was not legitimized by marriage and the casta population continued to increase. At the end of the eighteenth century, castas comprised 60 percent of the city's population.<sup>28</sup> Racial categories included white, black, Indian, mestizo/a, mulato/a, and pardo/a. Out of 426 males, the records indicate, one white, one mestizo, six mulatos, 363 pardos, 25 blacks and 30 Indian. The similarly identified cohort of 444 women yielded three whites, three mestizos, six mulatas, 404 pardas, four blacks, and 24 Indians. They were further divided by their "class": slave or free. Out of 784 thus identified males, 590 were free and 194 were slaves, while out of 599 known females, 480 were free and 194 were slaves.

Marriages among castas revealed that they were racially endogamous. Yet, when considering the parties' conditions, a pattern emerges that indicates an upward movement along the socially constructed and recognized racial hierarchy. Although the most frequently identified category for married couples appears to be free castas who married other free castas, the relationships differed among the slave population: here, male slaves tended to marry free females more than female slaves. This has been attributed to legal ramifications in that children took on the legal status of their mothers.<sup>29</sup> Male slaves, the argument goes, looked to marry free females as means to provide freedom for their future children (see Table 2.1).

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27. "Libro de Matrimonios de Castas," Arzobispado Archivo de la Catedral Libro de Matrimonios de Castas (1776–1856).

28. Turkovic, "Race Relations," 73.

29. Frank Tannebaum, *Slave and Citizen: The Negro in the Americas* (New York: Alfred A. Knopf, 1947), 50–52.

Table 2.1

## Marriages among Castas by Condition, 1776-1853

Condition	Condition	N	Pct.
Husband	Wife	Marriages	Marriages
Free	Free	270	23.4
Free	Slave	49	4.0
Free	Unk.	271	23.5
Slave	Free	111	9.6
Slave	Slave	52	4.5
Slave	Unk.	31	2.6
Unk.	Free	99	8.6
Unk.	Slave	18	1.6
Unk.	Unk.	250	22.2
Total		1151	100.0

Source: Libro de Matrimonios de Castas in the Arzobispado Archivo de la Catedral

My data corroborate the work of previous authors, such as María Ferreyra del Carmen and Mónica Ghirardi, who found similar tendencies for Córdoba's marriages in the eighteenth century.<sup>30</sup> The relative absence of interracial marital unions from 1700 to 1856 in Córdoba demonstrated the conservative depths of Córdoba's society. Further, its consistency in preventing interracial marriages throughout the colonial and national periods differed from other Argentine

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30. María del Carmen Ferreyra, "El matrimonio de las castas en Córdoba, 1700-1799," *III Jornadas Argentinas de Estudios de Población, Junta Provincial de Historia de Córdoba* (1997): 285-327; M. Mónica Ghirardi, *Matrimonios y familias en Córdoba, 1700-1850* (Centro de Estudios Avanzados, Universidad Nacional de Córdoba: Córdoba, Argentina, 2004), 69. Interracial marriages in the city of Córdoba from 1700-1799 revealed that only 1.65% of all marriages were interracial and involved Spanish men about 60 percent who married slave women, while Spanish women who did marry interracially often chose Indians at 50 percent. Between 1780-1840 only 0.35% of all marriages corresponded to interracial couples i.e. whites with castas.

regions. In particular, by the end of the eighteenth century and into the nineteenth—from 1776 to 1810—interracial marriages increased notably in Buenos Aires.<sup>31</sup> The difference between interracial marriage rates in Buenos Aires and Córdoba has been attributed to their respective economies.

Since the seventeenth century, Córdoba's economy was strongly dependent on its mule trade. By the first half of the eighteenth century, though, Córdoba was experiencing both economic and demographic stagnation. By the mid-eighteenth century, it became “a net exporter of population both to the north (Jujuy) and to the south (Buenos Aires).” Though the economy improved under the viceroyalty period, of 1776-1810, the “economic base of the city was always too small to support the local population.” By 1780, the city's whites, 2,500 out of an estimated population of 7,800 people, “behaved as if they were under siege from other racial groups.” Buenos Aires, by contrast, had experienced steady economic growth since the seventeenth century. As a port city it served as a commercial entrepôt and focused on processing and exporting hides; consequently, it contained a large artisan sector. In 1776, Buenos Aires became the capital of the viceroyalty, further allowing it to accumulate more funds and exercise greater political clout.

Based on their economic conditions, cordobés litigants focused on racial and social inequalities, while economic differences were considered with less explicit frequency. In Buenos Aires, litigants were far more likely to present their cases on the grounds of economic inequality, with race, social background, and morality being lesser considerations. These patterns suggest that porteños often overlooked racial background and focused instead on the economic status of the spouse's family. Cordobeses, however, concentrated on race and social rank as indications of class and privilege in a precarious world.<sup>32</sup> Differences in regional contexts in the territories ultimately pushed for revisions to the Royal cédula.

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31. Arzobispado Archivo de la Catedral, Real Orden de 10 de abril de 1803, Legajo 15 (1701–1820).

32. Socolow, “Acceptable Partners,” 222.

Over the next 25 years, the Royal *cédula* of 1778 was revised. The need for revision resulted from litigations that forced further review of the law. The first revision in 1783 addressed parental discretion in Guanajuato, Mexico. A daughter went against her father and married despite threats of disinheritance. Later it was revealed that the daughter's mother disagreed with the father and had promised to keep her daughter in her will.<sup>33</sup> Because of this backup plan, the daughter was able to defy her father. In order to prevent differing parental declarations, the 1783 Royal *cédula* declared: "if a father's opposition to his offspring's marriage was declared to be rational by the court, a mother could not will property to the offspring."<sup>34</sup> The 1783 *cédula* reinforced a pervasive patriarchal state. The *cédula* quieted the mother's ability to differ from her spouse, and side with her children, as the father had the ultimate say. Furthermore anyone marrying in spite of parental opposition risked disinheritance.

Later, in 1787, the Crown declared that "ecclesiastical judges should not allow young couples to marry when either of the parents objected, even if the children accepted their being disinherited."<sup>35</sup> Both civil and ecclesiastical judges had to support parental decisions. Besides purporting a patriarchal state, the *cédula* of 1787 marked an ongoing jurisdictional competition that had existed between the State and the Church. Throughout most of the colonial period, the Church had enjoyed a monopoly on the sanctity of marriage because it was declared to be sacrament. Priests in particular played a crucial role in ensuring that parents allowed for couples to choose their marriage partner. In desperate cases, priests would secretly marry couples if parents did not grant their children permission.<sup>36</sup> Additionally, the Church had the ability to call the royal police when parents objected to their children's choices in marriage selection. Under the Royal Pragmatic of 1776, the Crown had taken marriage conflicts out of the realm of

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33. Saether, "Bourbon Absolutism," 496.

34. Socolow, "Acceptable Partners," 211–12.

35. Saether, "Bourbon Absolutism," 498.

36. Sloan, *Runaway Daughters*, 6.

ecclesiastical courts. The 1787 *cédula* further fueled the competition of State and Church as the Crown took away the Church's right to perform marriages without oversight.

Yet, the 1787 *cédula* revealed the discrepancy in cultural understanding between the Crown and its territories. It disregarded the *palabra de matrimonio* and courtship practices. Once the betrothal had taken place, "a woman would voluntarily give away her body" and the Church "oblige[d] him to restore her honor by marrying her." Cultural discrepancy rested in what the "new law ruled and what people normally felt was just." In Cartagena, women thought that if they had "lost their virginity under a promise of marriage, it was the man's duty to fulfill his promise." Local priests further supported these thoughts by wedding couples so that they would not continue to live in sin. These cultural practices by ecclesiastical authorities provided a space for unequal marriages, a practice the Crown would not accept.<sup>37</sup>

By 1803, the Crown issued the new Real Pragmática in an attempt to revitalize the original intent of the Pragmatic of 1776. It established that "all males under 25 and all females under 23, of all classes needed their father's consent to marry." Furthermore, if the father did not grant his permission, an explanation for his resistance was not required. If the father was deceased, the mother could grant permission to marry, and the age limit decreased by one year making it so that all males under 24 and all females under 22 needed her permission. If both parents were dead, the decision would be delegated to the parental grandfather, if available, otherwise to the maternal grandfather; in either case, the age limits were reduced to 23 for males and 21 for females. If both grandfathers were deceased, the authority rested with a tutor or guardian for men younger than 22 and women under 20. It further established that ecclesiastical vicars who disregarded the rules set forth for arranged marriages would be expatriated and their property would be confiscated. Only betrothals carried out by adults and confirmed by notaries were legally binding. Furthermore, ecclesiastical and secular tribunals would not be allowed to hear cases that had not followed the established procedures, and if a case were to be heard, it

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37. Saether, "Bourbon Absolutism," 498–501.

would go before a civil court.<sup>38</sup>The final revision to the Pragmatic occurred in 1805. The King cast the permission to marry in racial terms after the viceroy of the Río de la Plata expressed concern that “nobles and those of pure Spanish blood were attempting to marry blacks, mulatos, and other castas.” In response, the Council of Indies prohibited for the first time marriages between nobility and Afro-descendants (including blacks, mulattos, and other castas).<sup>39</sup> By 1805, all interracial couples had to receive permission to marry. If permission was not granted, interracial couples still fought for right to marry. They did so by way of the Royal Pragmatic of 1776 and the subsequent as associated cédulas which allowed for couples to appeal their parents’ decisions.<sup>40</sup>

#### The Humanly Selected: The Emergence of Individualism

In 1842, Anastacio Arellano, who defended his right to marry Doña Adelaida despite her father’s opposition declared, “from the shouts of the first victims” men had died for the right to have “. . . liberty, equality, and property in this land of America.”<sup>41</sup> Arellano attempted to sway the Court into allowing him to marry Doña Adelaida. Arellano further proclaimed he was free to be with whom he wanted. Yet, he discovered that others, such as his intended bride’s father, were intent on denying him this right because of his unequal lineage. Arellano questioned this mentality, asking how it was possible that “there were people who neglected these principles that cost us so much blood and still want to form opposite and contrary ideas of OUR Identity OUR Ways and OUR Sovereign Liberty?” If such people existed, the State, he declared, remained in danger as the existence of “inequality and federation could not be . . . virtue was the only and unique nobility . . . that balanced our political existence.”

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38. Archivo Arzobispado de la Catedral, Real Cédula de 10 de abril de 1803, Legajo 15, Arzobispado.

39. Arzobispado Archivo de la Catedral, Real Cédula de 27 de mayo de 1805, Legajo 15 (1701–1820).

40. Archivo Histórico de la Provincia de Córdoba, Real Pragmática de 23 de marzo de 1776 y Cédula Real de 7 de abril de 1778 Legajo 97, Exp. 8.

41. Archivo Histórico de la Provincia de Córdoba, Escribanía 4, Legajo 89, Exp. 18 (1842).

In a final plea, he reminded the Court that the unjust opposition of Alejo José Peralta, his potential father-in-law, who “modulated his ideas with the most horrific rule of despots,” should not prevail. Arellano, who described himself as of good character, indicated that he had “a little capital” which he promised to use to take care of his future wife.<sup>42</sup> Throughout his defense, Arellano focused primarily on republican ideologies that declared men to be free, a key component of liberalism. He stressed that all classes partook in the struggle for independence. It was not just an elitist effort but rather one shared by all. Moreover, the virtue and strength of this newly found freedom was the basis for their political existence and republican stability. Without such acknowledgement, there would be a constant threat of social disorder.

His statement encapsulated the spirit of the independence period, 1810-1816. He argued for liberalism. The emergence of liberalism in the late eighteenth and early nineteenth centuries challenged racial and class hierarchies established in the colonial era as it presumed “an unmarked, race-less, even gender-less individual.”<sup>43</sup> These ideas contrasted with the norms associated with the late colonial period. During the fight for independence such ideals became more prevalent as elites argued for freeing themselves from a tyrannical paternal King.<sup>44</sup> It became an immediate threat to traditional notions of the patriarchal state.<sup>45</sup>

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42. AHPC, Esc 4, Leg 89, Exp. 18 (1842)

43. Nancy P. Applebaum, Anne S. Macpherson and Karin Alejandra Roseblatt, “Racial Nations,” in *Race and Nation in Modern Latin America*, Nancy P. Applebaum, Anne S. Macpherson and Karin Alejandra Roseblatt (Chapel Hill: The University of North Carolina, 2003), 4. Nonetheless, nineteenth-century liberals described the ideal qualities of citizen and nations in implicitly racialized and gendered terms. Literacy, property ownership, and individual autonomy equaled whiteness and masculinity, females and *gente de color* did not conform to this idea of citizenship.

44. Kinsbruner, *Independence in Spanish America*, 12. Royal authority was only legitimate as long as it did not rule tyrannically. If, however, royal authority became tyrannical, the people had the right to oust the tyrant. Furthermore, if the King was unable to govern, the people had the right to replace him. This right was of great importance to the independence movement since it meant that sovereignty reverted to the people.

45. Jeffery Shumway, *The Case of the Ugly Suitor: And Other Histories of Love, Gender, and Nation in Buenos Aires, 1776–1870* (London and Lincoln: University of Nebraska Press, 2005), 70–71. Although, scholars argue that “patriarchal authority controlled marriage choice in traditional societies while modernizing societies weakened patriarchal authority and allowed

As the fight for independence dragged on, maintaining social order became especially important. In particular, elites attempted to rein in the popular masses' belief in egalitarianism and return to a hierarchical order that resonated with the past.<sup>46</sup> Even the notion of being a patriot and the fight for *patria* had to be led by “an elite of enlightened men who alone could lead the untutored masses to truth and freedom.”<sup>47</sup> These elitist considerations appeared to have played heavily on the court's decision because, in the end, Arellano was denied the right to marry Doña Adelaida. Whether or not justice prevailed in this case may remain open to debate. But what became apparent is that this court case was not divorced from its social and cultural context. Arellano's ability to reflect on the values of a new freed state demonstrated how personal freedom had become an important and lasting result of the independence period, not easily dissipated by litigation.

Youthful challenges, especially among the *gente decente*, were directly linked to republican values and the spirit of the independence period. The fight for independence in Spanish America undermined the established moral order of the *ancien régime*. This, in turn, allowed a younger generation to break with tradition and to begin to think and act as individuals.<sup>48</sup> These individuals focused on their immediate needs and desires while putting aside the family's aspirations. This ideological shift was reflected largely in marriage choice, as the revolutionary generation chose partners based on affect, not just calculation, claiming it was their *voluntad*, or will, to be with someone of their choice.<sup>49</sup> “Will” or “desire” presented the State with

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more freedom for couples to choose their mates” they fail to acknowledge the active role of the Church prior to the Bourbon Reforms.

46. Mark Szuchman, “A Challenge to the Patriarchs: Love Among the Youth in Nineteenth-Century Argentina,” in *The Middle Period in Latin America: Values and Attitudes in the 17th - 19th Centuries*, ed. Mark Szuchman (Boulder: Lynn Rienner Publishers, 1989), 143.

47. Nicolas Shumway, *The Invention of Argentina* (Berkeley: University of California Press, 1991), 27–29.

48. Szuchman, “A Challenge,” 142–43.

49. Arzobispado Archivo de la Catedral Juicios Esponsales, Legajo 193 Exp 2, (1813).



the potential threat to a socio-economic elite status quo. The Catholic concept of free will had been eroded by way of the Royal Pragmatic at the end of the eighteenth century, but the ideas of liberalism had allowed the principle to reemerge as strategies for young couples who tested new meanings and limits of freedom.

#### The State's Interpretation: The Racialized Court

The study of marriage dissent cases involving people of color provide an intimate look into how the workings of the State informed the family. Not considered as a private matter by the authorities, the contested choice of a spouse would be decided by the Court. Both couples and families attempted to thwart their adversaries by defaming their character. In court proceedings, it became apparent that the parties were well aware of the cultural and social implications of the law and often cited it as a defense. The legal implications of the Royal Pragmatic were commonly used by families during the colonial period while individualism and citizenship were used normally as defenses. Free will, or the ability for couples to choose their marriage partners, had been attacked under the Royal Pragmatic, making it difficult for couples to win against their families. Nevertheless, under the influence of liberalism, free will resurfaced. Unlike the jurisdictional conditions presented by colonial experience, in which marriage choice was protected under the Church, personal choice based on liberal ideas would be argued by individuals no longer receiving such protection. This, however, did not mean that references to the Church's precedence were ignored. A total of 11 court cases were overseen in ecclesiastical court, six of which took place in the national period, 1810-1853.

In 1813, José, a slave at the monastery of Santa Teresa, wished to marry Felipa Liendo, a free parda, who also worked there. José argued the Director of Santa Teresa "had no right to prohibit his marriage, he was now free and had the freedom to choose whom he wanted." This statement again revealed how much liberal ideas had become accepted by popular classes who expected to receive justice based on their right to choose. José argued that as a free person of

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color, he had rights as a citizen. The Church also agreed with José, declaring that “it would be a scandal in the Church of God” if it did not allow him to marry whom he wanted. The Church’s support for José’s position revealed its continued commitment to free will. But the Director of Santa Teresa, Joseph Manuel Martínez, declared that José had left out an important detail: he did not have a *venta de libre*, otherwise known as *papel de venta*. This document detailed the characteristics of the slave, his value and price and whom potential buyers need to go to if they were interested in buying him.<sup>50</sup> Martínez further argued that José failed to mention this fact in his opening statement in order to persuade the Court. The law set forth by “Señor Bishop did not permit slaves from the Monastery to marry free people without the *papel de venta*.” José had requested such documentation, and “had received it but it did not allot him such that he could choose whom he wanted to marry . . . it only verified that matrimony was necessary in order to find another owner.” This statement clearly put to rest any ideas of José’s freedom of choice. The argument from the Director, though convincing, still was not enough to deny José and Felipa the right to marry.<sup>51</sup>

Table 2.2

Plaintiffs in Dissent Cases, 1776-1853

Type of Plaintiff	N	Pct.
Couple	36	55.0
Authority Figure (family, owner)	27	42.0
Unk.	2	3.0
Total	65	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

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50. González Undurraga, “Carta de libertad,” 1.

51. AAC Juicios Esponsales, Leg 193, Exp. 2, (1813).

Both couples and parents initiated dissent cases. Out of a total of 65 such cases involving people of color, 36 of them resulted from the confrontation the intended couples brought against authority figures, including parents, siblings and owners, while in 27 of the cases, those authorities initiated the suits against the couples (initiators could not be determined in two cases; see Table 2.2). Of the cases brought by one member of the intended couple, only nine were brought by females while the majority was brought by males (N=27). When cases were brought by authority figures, the gender gap narrowed to 13 females and 14 males (see Table 2.3). These nearly equal gender distributions among authority figures suggested that males in female-led cases may no longer have been living or were otherwise absent from the home, as the initiating individual was often the mother.

Table 2.3

Gender Distribution of Plaintiffs, 1776-1853

Plaintiff	Male	Pct.	Female	Pct.
Couple	27	66.0	9	41.0
Authority Figure (family, owner)	14	34.0	13	59.0
Total	41	100.0	22	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

The fear of losing socio-economic status because a child would choose to marry a person a color could easily persuade a mother to take her child to court. For example, Lucía’s mother, Andrea Avelina Toledo opposed her daughter’s marriage to Miguel because he was a slave. Furthermore, she argued that her daughter’s actions derived from “the enormous crime of her passion, which dominated her with little fear of God and would result in the destruction of her honor.”<sup>52</sup> Lucía’s “romantic foolishness” was completely against the “better judgment of order,

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52. AHPC, Esc 3, Leg. 20, Exp 6 (1821).

and the spirit of the law.”<sup>53</sup> Andrea Toledo’s defense appealed to the necessity of social control, as this case took place in 1821, during the ensuing civil wars that followed the fight for independence. Thus any threat to the law was a threat to the fragile State. Yet, because Lucía was already pregnant, the Court sided with the couple lest further dishonor accrue in an already delicate situation.

In total, 41 males and 22 females initiated cases, while 46 males and 19 females defended their decisions against attempted legal interventions. This pattern represented continuities of a patriarchal colonial state. More males more than females filed suit, suggesting that traditional gender roles of the colonial period remained in place. The male figure was expected, if not obligated, to partake, in more public spheres, such as matters of the State, while females were regulated to a private sphere such as the family.

Table 2.4

Racial Composition and Condition, Plaintiffs, 1776-1853

Condition/Race	N	Pct.
White	14	38.9
Free casta	16	44.4
Slave casta	4	11.1
Unk.	2	5.6
Total	36	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

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53. AHPC, Esc 3, Leg. 20, Exp 6 (1821).

Table 2.5

Racial Composition and Condition, Defendants, 1776-1853

Condition/Race	N	Pct.
White	27	75.0
Free casta	7	19.4
Slave	1	2.8
Unk.	1	2.8
Total	36	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

The racial composition of both plaintiffs and defendants reveals that the majority of cases involved whites, followed by free castas and slaves (see Tables 2.4 and 2.5). Whites were often pitted against free castas, as indicated in 33 cases, and among themselves in 16 instances. This is of particular importance because it revealed how much the State had become involved in family affairs. Dissent cases revealed that marriage choice became a public affair when sons and daughters chose to defy their parent's authority. In both the colonial and national periods, couples attempted to decide their own fate. Over the course of this study, 1776-1853, 65 dissent cases were filed and we know the court's decisions in 38 of them (see Table 2.6).

Table 2.6

Verdicts in Dissent Cases, 1776-1853

In favor of	N	Pct.
Family	18	27.7
Couple	20	30.8
Unk	27	41.5
Total	65	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

No longer protected by the Church, such couples in the late colonial period largely failed in the event of familial confrontations: from the body of known verdicts, opposing families won 16 cases while couples won only 11 (see Table 2.7).

Table 2.7

Verdicts in Dissent Cases in the Colonial Period, 1776-1810

In Favor of	N	Pct.
Family	16	59.0
Couple	11	41.0
Total	27	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

But the reemergence of the concept of free will, which argued for the right for individuals to freely choose their martial partners, changed this trend as the Court more than likely ruled in favor of the couples who won nine court cases versus families who won two cases (see Table 2.8).

Table 2.8

Verdicts in Dissent Cases in the National Period, 1811-1853

In favor of	N	Pct.
Family	2	18.2
Couple	9	81.8
Total	11	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

A marriage dissent court case began with an opening statement from the plaintiff, which in these cases was normally a parent who did not want their child to marry a person of color, or a child/potential suitor responding to their families' opposition. The opening statement provided a summary of the case. Of the 65 cases of marriage dissent from 1776-1853, breach of engagement and racial differences were the main reasons for dissent in both the colonial and national periods (see Tables 2.9 and 2.10)

Table 2.9

Plaintiffs' Cause for Complaints, Dissent Cases, 1776-1853

Reason`	N	Pct.
Free will	8	22.2
Breach of engagement	20	55.6
Class difference`	4	11.1
Honor	3	8.3
Unk.	1	2.8
Total	36	100.0

Source: Juicios Esponsales in the Arzobispado Archivo de la Catedral and Disensos Matrimonios in the Archivo Histórico de la Provincia de Córdoba

Table 2.10

Defendants' Cause for Complaints, Dissent Cases, 1776-1853

Response	N	Pct.
1805 Law	3	8.3
Race Difference	24	66.7
Class Difference	3	8.3
Minor	1	2.8
Unk.	5	13.9
Total	36	100.0

Source: Juicios Esponsales in the Arzobispado and Disensos Matrimonios in the Archivo Histórico de la Provincia

Breach of engagement was often used by couples who argued that the marriage had to go forth because the *palabra de casamiento* had already been given (see Table 9). Racial differences overwhelmingly involved whites in opposition to free castas, followed by white families who pitted themselves against their children's decision to marry people of color (see Table 10). When Doña Roma Rodríguez decided to marry pardo Juan Flores, her father, Don Manuel Rodríguez, objected because "it was not his desire to have a known mulatto descendant of slaves" in the family. Fearing what his daughter's blind passion could harm, he declared "the sacred right for all family fathers was the obligation to see to the prosperity of their children, and for that reason they [parents] must detain the extravagances that feed their blind passions." He opposed his daughter's proposed marriage because "an unequal matrimony was nothing more than a seed. . ." that would ". . . continue a scandalous discord between families and would not wait to introduce itself to the



same consorts.”<sup>54</sup> In the end, Rodríguez argued that an unequal marriage based on the wants and desires of individuals amounted to nothing more than further disorder that would eventually threaten the institution of marriage.

According to Rodríguez, a good citizen would be willing to serve and sacrifice himself not only on the field of battle, but more importantly, for the family. Citizenship did not endow anyone with individual freedoms, but rather restrained those who could be a potential threat to the order of society. As the parental authority figure, he expected his daughter to obey him. An unequal marriage brought potential scandal and discord to the family ultimately challenging the family’s code of honor. Loss of honor could be detrimental for a family during the republican period. Already wracked with political chaos and seemingly constant civil wars the importance of a strong family network as a buffer against this turbulent environment proved to be a saving grace for many elite families. Without an honorable reputation, a family risked losing crucial economic connections which in turn threaten the family’s socio-economic stability.

Other reasons for initiating dissent cases ranged broadly from invoking the traditional right to exercise their free will accepting by implication the parental challenges; and basing their cases on undermining characterizations of unequal status. Class difference was particularly pronounced in cases involving people of color. Eight cases out of the total 65 cases involved castas against castas. Further analysis revealed that five cases involved free castas against other free castas, in two cases slaves attempted to marry free castas, and one case involving a slave versus another slave. Juan de Prado Véliz, father of a free *parda*, Dolores, did not want her to marry the slave Hilarión Moyano. Though Prado Véliz claimed his opposition was based on his daughter’s age — Dolores was a minor at only 20 years of age, three years shy of the age of majority for females — and that Moyano lacked work, her suitor had heard that Prado Véliz had said “his daughter was free and could not nor should not marry any slave.”<sup>55</sup> As the days passed,

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54. Archivo Histórico de la Provincia Córdoba Gobierno CN 60 Legajo 10 Fs 113–139, (1819).

55. Archivo Histórico de la Provincia de Córdoba Escribanía 4, Tomo II, Legajo 66, Exp. 19 (1826).

Prado Véliz appeared to have changed his mind as he declared “the royal cédula [of 1803] did not apply to this case,” and “the judge should make the decision as he would no longer fight.”

Dolores also had the opportunity to speak before the Court. She proclaimed that she would “love exclusively her [Hilarión] and make conjugal peace.” It was a rare declaration because few women in these marriage dissent cases testified during court proceedings. Shortly thereafter, the Court granted permission for the couple to marry. Yet, Juan did not live up to his promises and continued to prevent his daughter from marrying Moyano and again Moyano went to court to complain of this injustice. The Court sided again with Moyano and declared Prado Veliz’s disenso to be illegal.<sup>56</sup>

The lengths taken by Prado Véliz indicated how much he valued having a free daughter. The fact that he was a slave and still did not wish his daughter to marry one revealed that he had hopes that his daughter would marry up instead of engaging in a sort of status regression. Moreover, this case points to the role of class among people of color. Already having to deal with racial discrimination, parents hoped to elevate their children’s lives by guiding them to marry someone in a higher class. Dolores and Hilarión’s marriage placed the social position of Prado Veliz’s family in a precarious situation. According to Prado Véliz, a free *parda*, such as his daughter, would lose her reputation, and with that, the chances of marrying another. He proclaimed “rare is a *propietario* single, a woman who does not get one of these will cease to exist or become a prostitute.”<sup>57</sup> His concern for his daughter’s future reflected not only that of a parent who wanted the best for his child, but also the belief-system surrounding gender. For this father, at least, a woman unable to marry could only have a limited life that would be full of frustrations.<sup>58</sup> The Court, however, once again ruled against Prado Véliz and dismissed his opposition, allowing Hilarión to marry Dolores.

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56. AHPC, Esc 4, Tomo II, Leg. 66, Exp. 19 (1826)

57. AHPC, Esc 4, Tomo II, Leg. 66, Exp. 19 (1826)

58. AHPC, Esc 4, Tomo II, Leg. 66, Exp. 19 (1826)

Another case involving people of color as both plaintiffs and defendants pitted Esteban Fonesca, the father of Victoria, both free pardos, against José de Cruz, a slave who was represented by his owner, Don Tomás Inocencio Vázquez. Vázquez argued his slave had the right to marry Victoria because “there was no inequality.” Seen from the eyes of an elite member of society, Don Vázquez did not differentiate between free and enslaved castas. They were of equal status because of their racial background. Class status was reserved for those with titles such as himself and other elites of the community. Fonesca responded: “What Ignorance! Nothing less than a servile condition is one of dire impediments.” Furthermore, his daughter had already had given birth to Cruz’s baby and Fonesca “could not bear to see his daughter and grandson reduced to being servants.”<sup>59</sup> Similar to the previous case, Fonesca placed great value on his class status. As a free pardo, his daughter’s relationship with José de Cruz only weakened his family’s social position.

Overall, the verdicts in cases involving castas as both plaintiffs and defendants included five instances in favor of the couple, one case in favor of the family, and two incomplete cases. Court cases that ruled in favor of the couple almost always involved endogamous relationships. These cases included free castas against other free castas, and one case involved a slave against another slave. The only case in which the Court favored the family involved a potentially exogamous couple, a slave and a free casta.

Normally, opening statements were simple. The parents usually objected to the choice made by their son or daughter. But sometimes, the case could prove more complicated; for example, couples may have eloped rather than face the requisite arduous processes involved in parental dissents. In such cases, criminal charges might also be filed under the prohibitions against seduction. A case of elopement occurred in 1797 when Domingo Amarante and Doña Lorenza fled because her family objected to her marriage to a mulato. After two months, the

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59. Archivo Histórico de la Provincia de Córdoba Escribanía 4, Tomo II, Legajo 66, Exp. 27 (1826).

couple was found and Domingo Amarante was jailed; he was later released, presumed to have suffered enough, but under the condition that he “take spiritual exercises and later “move to Mendoza.”<sup>60</sup> In 1814, José Thomas Cabrera, a mulato, wanted to marry María Acuana, a white female, but Acuana’s mother was against it as she argued that Cabrera was of “unequal blood.” Her daughter then ran away with Cabrera after hearing she could not marry him.<sup>61</sup> The daughter’s action further complicated the case because María’s honor was impugned. The implications of her rebellious act included the loss of “purity.”

The defendants then followed the opening statement with their version of events. It could either be a parent who wished to justify the prevention of a marriage or the child who had to argue for the right to marry. Opposing statements between members of the family then ensued, often resulting in the loss of family privacy as intimate details became exposed and as each side defamed the other in the quest for justice. Often, a suspected pregnancy was confirmed, as was the case of Lucía and her suitor Miguel in 1821. Her pregnancy meant that her honor had been jeopardized and marriage, even with an “unequal,” might redeem some standing among her peers.<sup>62</sup> The majority of cases pitted a father or father figure (uncle or older brother) and his son—or a father figure and the intended husband—against one another. As the data in Table 1 indicated, 41 cases were initiated by males out of a total of 65 cases. This gender distribution pointed to gender practices that reflected Córdoba’s patriarchal society. Rarely did the data show that a woman would defend her right to marry or have to prove she was of clean blood (*limpieza de sangre*).

In cases when women served as plaintiffs, the mother figure (mother, older sister, aunt) would oppose the child’s choice in marriage. Males, however, often defended themselves when they were accused of being tainted with *mala sangre*. A man’s productive value was associated

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60. Archivo Histórico de la Provincia de Córdoba, Crimen, Legajo 80, Exp.1, (1797).

61. Archivo Histórico de la Provincia de Córdoba, Crimen, Legajo 125, Exp. 22, (1814).

62. AHPC, Esc 3, Leg 20, Exp 6 (1821).

with his honor, which meant he had to prove he was worthy enough to marry outside of his race or class standing. Sometimes, plaintiffs or defendants would call witnesses, especially in those cases where the intended groom or bride to be was accused of having *mala raza*. Witnesses were a crucial aspect in the case between brothers Don José Domingo Baigorri and Manuel Baigorri in 1813. Don José Baigorri opposed the marriage of his brother to Manuela Arrieta. Acting in the name of his deceased mother, he claimed the marriage could not take place because Arrieta, a mulato, was “notoriously unequal to his brother in her birth,” that is, she had *mala sangre*. In defense of his intended bride, Manuel rejected the idea that she was unequal. In attempting to prove she was of equal birth, he relied on two witnesses to declare that his Manuela was of noble blood.

The witnesses knew Manuela Arrieta’s family and presented a small but significant genealogy. Witness José Juárez declared the “maternal grandparents of the fiancée were Indians but known to be Spaniards.” Because Indians were allowed to marry Spaniards, Baigorri said his potential bride was indigenous. Believing Manuel Baigorri’s testimony, the Court declared there was no inequality and granted the couple the right to marry. Undaunted, José Domingo continued to protest the Court’s decision and supplied other witnesses who provided an extensive genealogy to prove that she was mulatto.<sup>63</sup> But despite such attempts, the Court maintained its original decision. Witnesses often provided the genealogy of a family, tracing it back to the individual who had introduced the “tainted blood” in order to defame the intended spouse. Conversely, witnesses could also testify to a suitor’s *limpieza de sangre*. Usually, it was not the prospective bride or groom who was charged with being the source of the problem. The alleged original transgressor, the person who had supposedly introduced the “stain” in the family, was usually found to be a grandparent.<sup>64</sup>

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63. Archivo Histórico de la Provincia de Córdoba, Escribanía 4, Tomo II, Legajo 46, Exp. 31 (1813).

64. Socolow, “Acceptable Partners,” 219.

A person tainted with *mala sangre* could ruin potential vital connections that a family needed to prosper. For that reason, parents and other family members fought hard to keep their children from dishonoring the family by marrying a person of color. Nonetheless, having a profession often assisted young couples in cases of clear racial differences between the intended partners. The Court equally ruled in favor for white males and females accused of having *mala sangre* and for males accused of having *mala sangre* and white females. Equally distributed rulings were found in favor of white males and females with *mala sangre* during the colonial and republican periods. This illustrated the persistence of colonial characteristics into the republican period, including its patriarchal components. The male's ability to take care of his wife was a crucial factor in the court's judgment. It especially held true for white males as their racial background would not serve as an impediment to employment.

However, the Court's ruling in the cases involving males accused of having *mala sangre* and white females revealed a stark difference during the colonial and republican period: the Court had favored these couples more in the colonial period. Males accused of having *mala sangre* were more successful in proving they had clean blood, largely through the use of witnesses who provided genealogies. Only once during the national period did the Court rule for a male accused of having *mala sangre* and a white female. This case involved Miguel de Seña and Lucía Toledo in 1821. Although a slave, Seña was a shoemaker, which meant he could eventually buy his freedom and financially support his wife. However, it was Lucía's pregnancy that probably swayed the Court.<sup>65</sup> Miguel may not have been able to reach the highest socio-economic level or class status as a shoemaker, but he would be able to maintain and support his wife and child.

#### Cultural and Legal Jockeying

The Catholic Church's protection of free will and its inclination to support the personal choice of couples provides a unique opportunity to study the more complex political and legal

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65. AHPC, Esc 3, Leg 20, Exp 6 (1821).

jockeying that ensued between the Church and State for stewardship in family considerations, beginning with marital choice. For the purpose of marriage, free will meant the right to choose marriage partners. Protected by the Church for centuries, it was challenged and placed under the jurisdiction of the Spanish Crown with the enactment of the Royal Pragmatic, only to reemerge with liberalism and its emphasis on an autonomous individual rather than social collective, such as the family and community. This concept served as a key argument by couples in marriage dissent cases throughout the colonial and national periods.

By focusing on multiple familial dimensions, it becomes clear that marriage proved to be more complicated than an ordinary love affair. Marriage dissent cases demonstrate that both sides found new challenges as parents wished to maintain their historical privileges, which meant taking care of their children and guiding them to good decisions that would, in turn, accrue to the benefit of the family; while couples who wanted to be with their true loves needed to strategize and stretch new definitions of freedom. The changes in the State's attitudes toward marriages in the republican period suggest that Córdoba's race relations were greatly influenced by liberalism which then allowed for the reemergence of the principle of free will.

## CHAPTER 3

### Human Property to Free Individuals: The Gradual Abolition of Slavery

By 1853, the Argentine Confederation declared: “there are no slaves. . . the few that now exist are free upon the ratification of this Constitution.”<sup>1</sup> Abolition in Argentina was a slow and gradual process that took fifty years to accomplish. No major revolution or slave rebellion occurred that would mark the end of slavery, but rather the need for slaves no longer existed. The nature of the pampean economy, mainly based on wheat and hides, was not conducive to a significant need for slave labor, which never rose to the level of its neighbor to the north, Brazil. Although slaves never amounted to a large population in the Río de la Plata, they had significant concentration in the cities such as Córdoba and Buenos Aires. In the interior city of Córdoba, slaves amounted to a third of the population, and combined both free people of color or *casta* population and slaves. They amounted to 60% of the total population by the end of the eighteenth century. For the next eighty years, the slave population would gradually decline and the free *casta* population increased. The results of cases in which slaves sought their freedom from 1776-1853 revealed that the State granted slaves their freedom throughout the colonial and national periods. Freedom cases also demonstrated that slaves found themselves to be astute in their efforts to have recognition of their right to be free subjects and, in the post-colonial era, citizens. The transformation from slaves to free people meant a reconstruction of their identities.

The transition from slavery to freedom was dynamic and involved two key elements: the law and the individual (slave/freed person). The interaction of these entities occurred at court. There they negotiated their identities as either slaves or freed people and sought State recognition during both the colonial and the national periods. The law was based on the State’s sanctions. The legal system had two main functions: it provided a framework for interpretation in the courts and

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1. Andrews, *The Afro-Argentines*, 57. Because Buenos Aires was not a part of the Confederation slavery existed until 1861 when it officially joined the Confederation and Constitution.



it provided a legal understanding of the person. From 1776-1810, the State resided in Spain. The cultural and physical distance between Spain and its territories often revealed how Spain viewed its dominions. This top-down relationship did not always coalesce with the contextual conditions of the territories. When conflicts arose that could not be settled outside the law, these different interpretations were brought before the court to be resolved. There, the law was interpreted to reflect the local setting's reality in colonial Latin America.

Simultaneously, laws provided a key insight of the legal understanding of an individual. Moreover, it defined the understanding of a person's social status. The law defined one's personhood and their social standing. In the case of slaves, the colonial State's *Código Negro* defined them as human property. Respecting both attributes, a slave's humanity and an owner's property, the set of laws put limitations on the owner's treatment of their property as they were human beings. In the late eighteenth century, a patriarchal system of governance provided the mechanisms by which a slave could appeal. Similar to a familial relationship in which the father was the head of the household, the colonial State assumed a paternal role. The law argued slaves could contest unjust treatment from their owners.

The Court provided a contact point for the State and the individual. It functioned as an interpreter of the law and an agent of social control. Often, the Court had to address cultural and social differences in the colonial period. The State's understanding of its territories did not factor the territories' racial schisms. In the territories, race played a key role in determining socio-economic access and privilege. The Crown, however, focused primarily on class differences and the protection of property, reflecting the metropole situation. As a result, the territories based their court decisions on their local contexts.

In Córdoba, at the end of the eighteenth century, an increased casta population caused alarm and fear among the white elite. Centuries of racial mixing had created a society in which it was hard to phenotypically distinguish those who had privilege and those who did not. In order to contain this growing population, the Crown made social control its primary goal. Laws contributed to the marginalization of castas: they could not occupy public places, carry arms,

receive an education, or wear clothes out of their class. Social and legal prescriptions marginalized the casta, converting him into an unsatisfied element: vagabond or thief. Colonial law makers tried to extinguish this vagabond. Documents from the late eighteenth century mentioned frequently this potential problem. As a result, the State systematically started to persecute vagrancy, with punishments of jail time and forced labor.<sup>2</sup>

Conversely, through their interaction with the Court, slaves and free castas were legally recognized as subjects of the Crown or citizens of a nation. Subjects of the Crown had the right to appeal to the State, allowing slaves to question and contest unfair treatment. This was often done through the use of a Defensor de Pobres who took the case on behalf of the abused slave. Being astute and aware of their ability to appeal to the State, the Defensor de los Pobres' argument often cited the "personal nature of the legal status of slaves."<sup>3</sup> Furthermore, when a slave found his condition no longer tolerable, he appealed to the paternal state that guaranteed various protections under the law, as it acknowledged the human quality of slaves and ultimately wanted to protect its property. During the national period, as citizens, slaves evoked a more individualistic approach to appealing to the State. Their patriotic showings during the wars of independence made them aware of their rights as citizens. One of these rights included freedom.

Over the course of 80 years, appeals for their freedom revealed that slaves valued their position as subjects of the Crown and, subsequently, citizens of a nation. If they could prove they had served their owners loyally, slaves most often were granted their freedom. In many ways, the owner represented the colonial State; he demanded obedience from his slaves and as a result he kept the peace. When the State became an independent identity, slaves still found ways to rest their appeals on their loyal services. Sometimes, appeals rested on their patriotic showing on the battlefield, but most likely they still argued their freedom should be granted due to their loyal

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2. Endrek, *El mestizaje en Córdoba*, 32–33.

3. Lyman Johnson, "'A Lack of Legitimate Obedience and Respect': Slaves and Their Masters in the Courts of Late Colonial Buenos Aires," *Hispanic American Historical Review* 87, no. 4 (2007): 633–34.

service toward their owners. This is of particular importance in Córdoba, where the independence was not home grown but rather forced on by porteño elites.

#### State Property

In order to revitalize the Crown's revenues, the Crown enacted the Bourbon Reforms, which reorganized the political structure in Latin America. In its efforts to quell any potential threat to the State, the Crown revisited the meaning of slavery and its overall implications. The goals of the metropole included the protection of all property, including chattel. In 1789, the State issued a series of laws known as *Real Cédula de su Majestad sobre la Educación, Trato, y Ocupaciones de los Esclavos, en Todos sus Dominios de Indias e Islas Filipinas, baxo las Reglas que se Expresan*, otherwise known as the Código Negro or the Black Code. It established "a useful system for all slaves, to provide the [guidelines] of a slave's education, treatment, and labor that owners must follow, and further confirm the principles and rules that dictate the religion, humanity, and the well-being of the State, [making it]compatible with slavery and public tranquility."<sup>4</sup> This code consisted of eleven chapters that specified how a contractual relationship between a master and slave would take place.<sup>5</sup> In particular, it stressed education of slaves, the required relationship between masters and slaves, and restricted physical mobility of slaves. If these rules were not carried out, the Code also outlined the ways in which slaves and masters could be punished. Above all else, it reinforced the humanity of slaves which had its origins in Las Siete Partidas. Las Siete Partidas implemented in the thirteenth century were greatly influenced by the Church. Based on the Church, a slave "[was] a man and suffers from the same pains, and delights in the same joys, that all men do." The quality of being labeled a slave allotted

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4. Raul Carranca y Trujillo, "El Estatuó Jurídico de los Esclavos en las Postrimerías de la Colonización Española," *Revista de Historia de América*, no. 3 (1938): 51.

5. Carranca y Trujillo, "El Estatuó Jurídico de los Esclavos," 50–59. Carranca y Trujillo provides a reprint of the original Código Negro.

them basic privileges. Being a slave was a temporary position and “the slave, as a human being is derived from the same source, and will finally come to the same end, as other men.”<sup>6</sup>

Noting their humanity, the Crown essentially set a legal path for manumission, as it was influenced by the Church whose views argued that all men were equal in the sight of God. The Código Negro stated: a Negro could be freed if unduly punished by his master. He was at liberty to marry a free non-slave (and the master could not interfere) and under the law, a male slave’s child born of a free mother was also free, as the child inherited the mother’s status.<sup>7</sup> The law also allowed slaves to buy themselves through installments.<sup>8</sup> The ability of a slave to purchase his or her freedom or to be freed by another, or coartación, was an important aspect of the slavery law. Evidence of its practice, however, is limited to the eighteenth century and primarily in Cuba.<sup>9</sup>

The enactment of the Código Negro in 1789 demonstrated the Crown’s clear understanding of the humanity of slaves and sought to ensure that slaves were treated well. The law stated that the owner had an obligation to provide for various provisions: masters must provide for slaves, including supplying them and their free children below certain ages, with food and clothing, and the prime occupation of slaves was declared to be agriculture, not sedentary duties. On feast days, the owners could neither force nor permit their slaves to work, but must — after the hearings of mass — provide simple diversions for them, though the sexes are to be separated. Separate quarters were to be provided for those not married. The old and infirm who could not work were to be maintained and could be freed so that the master could escape the burden of taking care of them.<sup>10</sup>

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6. Tannebaum, *Slave and Citizen*, 46.

7. Tannebaum, *Slave and Citizen*, 56.

8. Tannebaum, *Slave and Citizen*, 54.

9. M.C Mirow, *Latin American Law: A History of Private Law and Institutions in Spanish America* (Austin: University of Texas-Austin, 2004), 81.

10. Alan Watson, *Slave Law in the Americas* (Athens, Georgia: University of Georgia Press, 1989), 49.

The Código Negro provided insight into how the Crown viewed slaves. It determined them to be property but with certain rights as they were still subjects of the Crown. The local setting's social conditions, however, determined the actual implementation of that law. Racial differences in Spain and its territories caused the Crown to reform laws. Under the Siete Partidas, a slave who married a free person became a free person. Recognizing that Indians were free persons under Castilian law, and a slave who married an Indian was free, the Crown quickly realized the potential dilution of the slave population and sanctioned a law that maintained the slave status of slaves who married free persons. Thus, the policies of encouraging Christian marriage and securing property were harmonized.<sup>11</sup>

When a slave was denied the right to live with their spouse, which was stipulated in the law, he often used it as leverage to fight for his right to be free. Noting his situation, the Defensor de Pobres acknowledged that Martín de la Fuente, a slave, was not able to live with his wife. Martin had been a faithful slave to his owner, and had been granted the license and permission to marry Rosa de Valeriana Funes, a slave. For seven years, however, he had been separated from her, as his owner had not allowed him to see her or have a married life. Furthermore, “the laws of our Sovereign Catholics [were] prone to relieve the harshness of slavery.” This acknowledgement of the role of the Catholic Church argued slaves were entitled to a certain lifestyle. They may have been under the control of an owner, but in order to serve his owner dutifully and faithfully, the owner had to abide by the laws. As de la Fuente argued, “I am an unhappy slave, miserable person,” under the conditions set forth and for that reason, he deserved to be free.<sup>12</sup> It was further argued that the owner should be obligated to grant him a carta de libertad or freedom papers.<sup>13</sup> Based on the law, these were the conditions on which a slave could justly become free. The

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11. Mirow, *Latin American Law*, 81.

12. Archivo Histórico de la Provincia de Córdoba. Escribanía 2, Legajo 103, Exp. 12 (1802)

13. González Undurruga, “Carta de libertad.” 1. A carta de libertad was a document that recognized the legal end of slavery, and stated that the slave was now free.

owner was denying a slave, and subject of the Crown, the right to live a marital life. Both the Siete Partidas and the Código Negro had argued that slaves would have the right to live with their spouses even if they had different masters.

In Córdoba, the concern for social control dominated the local government. Marqués Rafael de Sobremonte, governor intendant of Córdoba from 1783-1795, enacted the Bandos de Buen Gobierno in order to curb vagrancy in 1785. All vagrants had to work and carry a permit which had to be shown to authorities on demand. If they did not have it, they would be subject to four months in jail or 25 lashes.<sup>14</sup> Such actions demonstrated an attempt to control social movement. This was of particular importance for the growing free casta population. Unlike the slave population, whose owners had ultimate say and control over the slaves' movement, a free casta posed a threat to the social peace. "Labeled a rouse and wanderer... the pardo was considered to be an adventurer, highwayman, and livestock thief." Pardos were accused of committing crimes that included concubines, vagrancy, violation of women, murder and highway banditry but livestock robberies was the "single greatest threat" to social order.<sup>15</sup> Vagrancy was considered a "social ill" that would lead to other vices, such as the illicit use of concubines, gambling and thievery."<sup>16</sup>

In 1789, intendant Sobremonte issued dress codes for castas. He ordered, "no mulata or negra, free or slave could wear gold, pearls or silk... if caught they risked losing everything and..."<sup>17</sup> These dress codes revealed that the growing casta population was no longer phenotypically distinguishable, and as a result, those who had been guaranteed various rights and privileges, elite creoles, were no longer protected. Free people of color in colonial Córdoba caused a problem for the State. Freedom may have allowed some former slaves to economically

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14. Turkovic, "Race Relations," 330–31.

15. Turkovic, "Race Relations," 357–58.

16. Turkovic, "Race Relations," 329.

17. Rufer, *Historias Negadas*, 43.

advance, but they were not to be trusted and had to be constantly observed. This was particularly problematic if slaves could prove that they had been loyal and had honorably served their owners.

Honor was based on an individual's reputation.<sup>18</sup> Based largely on the perception of others, honor became a quality that could be attained by anyone. In colonial Latin America, all subjects of the Crown could be honorable: it required abiding by the law and living a Christian lifestyle. Both owner and slave were expected abide by this code of honor. The owner had certain obligations set forth in the law that determined overall control of the slave. The slave, however, had to serve the master well. When the code of honor was not followed by the owner, the slave then had an avenue on which to seek his freedom. In colonial Córdoba, slaves argued that loyal service was the main reason why they deserved to be free. In serving the owner faithfully and loyally, slaves demonstrated they were honorable subjects. As subjects to the Crown, they were given the right to appeal to the State and take their owners to court. Margarita Peredo, in her efforts to become free, argued that her "owner during his life in remuneration of [her] long distinguished and faithful service, had promised her freedom various times, and gave it to her after his days." In serving her owner loyally, she deserved the right to be free. As a subject to the Crown, she was requesting that her honorable services be rewarded with her owner's promise of freedom. Yet, that was not enough, as the owner died with debts, and they still had to be paid.<sup>19</sup>

The interaction between the Court, and individuals (slave/freed person) demonstrated that power relations in the colonial period were often open to interpretation. The metropole and colony had at times a contentious relationship. According to Alan Watson, "rulers and their immediate underlings can be, and often have been and are, indifferent to the nature of the legal rules in operation."<sup>20</sup> As a result, the laws did not reflect the social, economic, political or cultural

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18. Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Massachusetts: Harvard University Press, 1982), 79.

19. Archivo Histórico de la Provincia de Córdoba. Escribanía 2, Legajo 65, Exp. 15 (1787)

20. Watson, *Slave Law in the Americas*, 1.

conditions of its territories. From the colonial standpoint, the increasing free casta population was cause for alarm and fear. No longer distinguishable from those of privilege, free castas threatened the status quo. The relationship formed between the individual (slave) and metropole, however, provided for the legal recognition of a slave's humanity. Largely influenced by the Church, the Código Negro of 1789 stipulated the ways in which slaves could become free. In turn, slaves appealed to the court, as they argued they had certain rights as subjects of the Crown. Being subjects meant they had the right to go before a judge and plead their cases for freedom.

The pinnacle of this antagonistic relationship occurred in court. Judicial proceedings showed that although society feared the free pardo, the State was still an agent for freedom. Out of sixteen cases from 1776-1810, colonial authorities ruled eleven times in favor of slaves seeking freedom, while only five were denied. Slaves were able to prove that they deserved to be free because they had loyally and faithfully served their master throughout his/her life. Upon the death of the owner, many slaves acknowledged that he had promised them freedom with either a will or verbal agreement, and requested that the court honor the owner's decision.

### Liberty, Equality and Property Rights

The end of the eighteenth century marked the start of the Age of Revolution, in which the Enlightenment and revolutions throughout the Americas were "destroying the legitimacy of the divinely-ordained, hierarchical dynastic realm."<sup>21</sup> The Enlightenment became a key to the awakening of new political thought and culture. The emergence of individualism emphasized the importance of equality amongst men. This ideology served as a basis for independence and the creation of new nations. Starting with the American Revolution, followed by the Haitian Revolution, and thirty years later the fight for independence throughout Latin America, new states were created.

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21. Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (New York: Verso, 1983), 16.



The struggle for Argentine independence began in Buenos Aires. In 1806 and 1807, the British attacked Buenos Aires in efforts to take control of various Spanish territories. Having successfully defended themselves from the British without the assistance of the Spanish military, porteños (people from the capital of Buenos Aires) questioned the needs for the Crown. More importantly, their successful resistance against the British army in 1806 and 1807 set into motion a political stance of self-determination.<sup>22</sup> Such a fight for their own sovereignty only ignited the porteños once the Spanish Crown failed to reestablish itself after the French invasion three years later.

The movement for leadership by Buenos Aires, however, was not consensually accepted in the Río de la Plata. Shortly after the declaration, factions developed, along with internal fighting, both within Buenos Aires and especially among regions. Córdoba, an already established and economically sound region, did not support independence. It became the center of counter-revolution, and the Cabildo recognized the Council of Regency in Cadiz. The intendant of Córdoba, Juan Gutiérrez de la Concha, and former Viceroy Liniers attempted to resist Buenos Aires's junta. They organized an army to march on Buenos Aires. Yet, the troops from Buenos Aires proved to be too strong, and defeated the Cordobeses. However, this did not mean that Córdoba and Buenos Aires formed a cohesive independent movement. Instead, the regions continued to debate over the junta's privileges in Buenos Aires and its overall power in comparison to the interior. Inevitably, civil wars broke out throughout Río de la Plata.

By 1816, independence was declared and Spanish rule had been displaced. As a result, any future legal codes would reflect the territories' local contexts rather than Spain's perception. This allowed for slaves to take into account their overall participation in the creation of the State, and caused the State to acknowledge their citizenship. Freedom became a desired goal for all slaves, and as citizens, they deserved that right. In celebrating the anniversary of the May 1810

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22. Tulio Halperín Donghi, *Historia Argentina: de la revolución de independencia a la confederación rosista* (Buenos Aires: Paidós SAICF, 2000).

Revolution, Córdoba's cabildo in late 1813 created a slave lottery *sorteo* to determine who would be set free. From 1813 to 1824, no records indicate that slaves were freed in this way; although in 1825, it was re-instated. An inventory prepared by the chief of police revealed 479 male and 787 female slaves eligible for the drawing. One male and one female won the lottery, and their owners were compensated.<sup>23</sup> These measures reflected the effects of the revolutionary rhetoric. As it argued for egalitarian societies based on liberty, liberal rhetoric made elites question the role of slavery. However, this did not mean abolition, because the elites were committed to "liberty, equality, security and property."<sup>24</sup>

Property rights became a key component of the liberal agenda. Yet, they proved to be a contradiction to what the liberal agenda espoused. Liberty and equality meant a newfound freedom that had not existed in the colonial period. These ideologies were pillars of the republican period. Property in the colonial period was protected by *fueros* and other corporate measures.<sup>25</sup> As liberalism became a staple and cornerstone of republican values, the protection of property was transferred to the individual. Yet the protection of property was antagonistic when it applied to a slave. Slaves in the new republic revealed an inconsistency in liberal thought. The political elite began to question slavery and its overall implications for a free nation. In order to assuage the inconsistency of property rights and slavery, the State passed two key pieces of legislation: the abolition of the slave trade in Buenos Aires in 1811 and the Free Womb Act of 1813.

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23. Turkovic, "Race Relations," 202.

24. Peter Blanchard, *Under The Flags of Freedom: Slave Soldiers and the Wars of Independence in Spanish America* (Pittsburgh, PA: University of Pittsburgh, 2008), 45–46.

25. Charles A. Hale, *Mexican Liberalism in the Age of Mora, 1821–1853* (New Haven and London: Yale University Press, 1968), 39. The liberal program following 1846 contained two objectives. The first objective was to the drive to free the individual from the shackles that bound him under the Spanish system thus achieve the freedom of the press, speech, and ideally religion. Protecting property rights and advancing economic liberty through *laissez-faire* were also directed toward the objective of individual freedom.

By 1811, the slave trade officially ended in the Río de la Plata. No longer would slaves legally be able to enter the port of Buenos Aires.<sup>26</sup> Any slave entering the country would automatically receive his freedom and that included those “brought by a trader or on their own free will.”<sup>27</sup> But the end of trade did not translate into emancipation, as “to extinguish slavery at a blow without attacking the sanctity of our properties and without exposing the homeland to grave dangers with the sudden emancipation of a race that, educated in servitude.”<sup>28</sup> The abolition of the slave trade, however, was hard to enforce. It was overturned in 1814 when it was declared any slaves coming from Brazil would be returned. This was in response to Brazilians who complained that a number of their slaves had fled south after hearing they could win their freedom. Another violation of the law was the taking of pregnant slaves outside the country to give birth so that the babies would be born slaves. Legislation passed in 1816 outlawed this practice but it was hard to enforce.<sup>29</sup> This legislation revealed a consistency with the colonial period. Besides attempting to correct property rights, it revealed the humanity of slaves. The Church’s rhetoric of slavery being a temporal condition meant that they still should be guaranteed a certain quality of life. By ending the slave trade, the morality of the slave trade was again put to the forefront. The level on which a slave could simply be viewed as property would not be tolerated in the new Argentine state.

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26. Mirow, *Latin American Law*, 143.

27. Andrews, *The Afro-Argentines*, 49.

28. Blanchard, *Under The Flags of Freedom*, 45–46.

29. Andrews, *The Afro-Argentines*, 55–56. The loopholes of 1813 law are revealed in the 1827 census that 2/3 of Africans entered the city after 1812 were slaves, a higher proportion than among Africans brought to the city during the slaving years prior to 1813. It demonstrated that blacks were not gaining their freedom once they entered Argentina. War with Brazil in 1825–1828 provided another way to subvert the law. Slaves on captured Brazilian ships now became the property of Argentina. Although the legislation of 1813 declared they would be free, privateers sold slaves to the government at 50 each and then raised their prices to 200 each seven months later. After four years of military service, slaves would be set free. Those that could not fight were to become libertos and sold to patrons from the government and the libertos had to serve their owners for 6 years or until the age of 20. The patron paid the state 1 peso a month for the liberto due to the labor shortage.

Two years later the Free Womb Act was implemented. All children born to female slaves in the Río de la Plata would receive freedom and they were known as *libertos*. This position marked an answer to the contradiction between property rights and liberty. As *libertos*, they represented a transient position for those that argued for liberty but still wanted the protection of their property. *Libertos* achieved freedom in theory but in practice remained within the boundaries of a slave and a citizen. It required infants to be suckled for one year and article five required a *liberto* under the age of two to accompany his mother if she was sold. Children who accompanied their mothers to new masters had to serve the mother's master without compensation. Articles six and 15 obligated *libertos* to live in the house of their patrons until they were 20 for males and 16 for females or until they married. They had to serve their patrons without pay until the age of 15 for males and 14 for females, after which they would earn a peso per month till they were freed.<sup>30</sup>

The legal recognition of *libertos* meant that the State took steps to not only amend the conflict between property rights and slavery but also began the process of gradual abolition. It guaranteed without “impinging on individuals property rights. . . slavery would be ‘extinguished successively . . . and show that nature has never formed slaves but men.’”<sup>31</sup> Yet, *libertos* were more than slaves but not quite free citizens. This label became particularly important in freedom cases where *libertos* appealed to the court requesting their freedom. In cases involving *libertos*, it was often argued that after serving their patrons, owners abused the law and attempted enslave

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30. Turkovic, “Race Relations,” 190–202. The Reglamento de *Libertos* was not always strictly followed. Many abuses occurred such as separating infants from mother, mistreating *libertos* and attempts to deny them the freedom that was theirs. The most abusive act of the Reglamento was the selling of *libertos*. Some owners argued that the right of patronage was legally transferable, yet they overlooked or denied the human element. Some owners sold them outside of the province which then made it more difficult to find them and enforce *libertos* rights. In order to control this, Bernardino Rivadavia, the minister of foreign affairs in Buenos Aires, and president briefly from 1826-1827, prohibited the taking of *libertos* to “foreign territory” or Brazil where similar laws did not exist. Governor Juan Bautista also took similar actions in Córdoba.

31. Seth Meisel, “‘The Fruit of Freedom’ Slaves and Citizens in Early Republican Argentina,” in *Slaves, Subjects, and Subversives: Blacks in Colonial Latin America*, Jane Landers, and Barry Robinson (Albuquerque: University of New Mexico Press, 2006), 290.

them. In order to prove their case, the date on which they were born became an important defense. In 1836, with evidence from the baptism records, the *Defensor de los Pobres* was able to successfully demonstrate that Prudencio Calderón had the right to be free. His baptismal record stated: “in the chapel of Poco, Prudencio Calderón, one year of age and son of María Juana Nieva slave of Doña Cruz Nieva was baptized on March 14, 1814. Providing proof of Prudencio’s birth and age convinced the court that he was a liberto. He had been born to a female slave after 1813 and he was 22.”<sup>32</sup> More importantly, if they could prove their case, libertos further demonstrated they were citizens. Citizenship meant civic participation and legal and social mobility.

Although the Free Womb Act of 1813 provided a compromise between property rights and slavery, the immediate need for manpower in the wars of independence took precedence to protecting the owner’s slaves. A decree in May 1813 in Buenos Aires established the formation of a regiment of slaves between thirteen and sixty and owners would be compensated from public funds. The decree argued “it would free a portion of the men condemned to slavery by ancient laws.” Furthermore, it would win their loyalty by raising them to the “dignity of free men” so that they would “defend with energy and enthusiasm a cause that secured their own freedom and that of their descendants.” As a result, the decree tied national liberation to personal freedom.<sup>33</sup> Although owners were guaranteed compensation, sometimes that did not occur. Instead, this decree revealed that the State would override an individual’s property rights for its own purposes when necessary.

The decision to enroll slaves into the army and emancipate them afterwards was a distinguishing characteristic of the early republic. Colonial authorities had also employed slaves as soldiers, but only after 1810 was recruitment explicitly linked to citizenship. This was an expression for soldier-citizen ideal. This concept of a politicized soldiery was the key to nation building as the republican emphasis on civic and military participation made clear that citizenship

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32. Archivo Histórico de la Provincia de Córdoba. Escribanía 4, Legajo 78, Exp. 10 (1836)

33. Blanchard, *Under The Flags of Freedom*, 47.

was a learned activity that engendered the kinds of new identities, values, and capacities that made a government based on “the will of the people possible.”<sup>34</sup> The participation of slaves in the war further expanded the definition of citizenship. Former slaves who had survived the wars of independence had proven their loyalty to the state. Politically, they espoused the ideas of the revolution and fought to free the nation from colonial tyranny. Later, they applied their loyalty to win their personal freedom. They became experts in pursuing their freedom by presenting their “political vitae.” Rather than remaining property, they became “political personalities.”<sup>35</sup>

Pablo Girante, soldier of the Rebajado Infantry, sought the freedom of his wife, Francisca Solana Martínez, who remained enslaved. Girante argued that he had paid the price of 100 pesos for her freedom but she remained enslaved. This was not acceptable for a soldier who had shown his loyalty and service to the nation on various occasions. He declared: “he had served from the beginning of the war the Spanish Armas, had the honor to find himself in all general battles and guerrillas . . . without committing in all of the time the execrable crime of desertion.” The last battle he fought in was under the late Captain General Don Juan Bautista Bustos, “for which he walked with him . . . to the Banda Oriental against the Portuguese. . . and as a soldier I had nothing more than to obey the Boss who governed me and I stayed on until the last decision in Tucumán for the late Señor General Quiroga . . .” These loyal services for the patria had earned Girante the right to secure his wife’s freedom. In the end, the court ruled in favor for Girante but he would have to pay 140 pesos.<sup>36</sup> Slave emancipation was linked to civil rights through the agency of military service. By becoming soldiers, they became citizens. Yet, Seth Meisel has argued it was not based “on the ‘universal rights of man’ or to propose sweeping measure to

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34. Meisel, “‘The Fruit of Freedom’,” 287–88.

35. Meisel, “‘The Fruit of Freedom’,” 292.

36. Archivo Histórico de la Provincia de Córdoba. Escribanía 4, Legajo 78, Exp. 17 (1836)

abolish caste and corporate distinctions. Instead, it gave benefits for those soldiers who fought under its flag.”<sup>37</sup>

Only in outlying regions “where Argentine armies entered as a conquering force, or in the case of Artigas, who radicalized his movement in attempt to establish an independent base of support, did these leaders broaden the social transformation in order to mobilize support in virgin territory.”<sup>38</sup> General Paz’s cultivation of urban blacks also fits this tradition. Paz’s government offered nothing to slaves, but to black soldiers he showed respect and, in turn, the alliance he cultivated with the castas gave them a role in shaping society’s racial relations. Paz’s goal was not social change, but the need for man power, which caused him to deal with the social conditions of his black soldiers. As a result, they were legally distinct from the rest of the slave population and it did signal a call for social change. Black soldiering “sapped all vitality from the institution of slavery,” and began the road for full citizenship.<sup>39</sup> By 1821, the Reglamento Provisorio declared “all free men born and residing in Córdoba were citizens but they would only enjoy an active vote on reaching 18 years of age and the right to be elected to office at 25 years old.”<sup>40</sup>

The interaction between the State (legal codes and court) and individual (slave) during the national period led to the gradual abolition and citizenship. It began with the rhetoric of the Enlightenment which espoused liberalism. It emphasized individualism and egalitarianism. It

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37. Meisel, “‘The Fruit of Freedom’,” 296–98.

38. Nicolas Shumway, *The Invention of Argentina*, 48, 53–54. Artigas was a popular caudillo in Banda Oriental he broke many stereotypes of a Federalist as he was well learned. For twenty years he served as the police of the Western Banda Oriental from Indians and the Portuguese during the fight for Independence. Loyal to the cause and very successful, he was surprised of Bernardino Rivadavia’s agreement to give Spain the Banda Oriental. It has been suggested that Rivadavia feared the growing strength of Artigas. He rejected European internationalist political liberal elite in Buenos Aires, as the porteños do not represent the people. Artigas represented the gauchesque. Governance of provinces is autonomy. Artigas sees the internationalists, such as Rivadavia as people who do not understand the true Argentina.

39. Meisel, “‘The Fruit of Freedom’,” 296–98.

40. Turkovic, “Race Relations,” 364–65.

further had stressed that the protectionist Crown, no longer benefited the territories. With the Age of Revolution, colonies throughout the Americas broke ties with their respective metropolises. Revolutionary leaders guaranteed an individual's "liberty, equality, and property." Yet, this phrase clearly became a point of contestation. It caused revolutionary leaders to reevaluate the servile position of slavery. The need for manpower superseded the owner's property rights. Now slaves would be citizens and active participants in the nation. The legislation of 1811, 1813, and 1821 further supported the transition of gradual abolition. In turn, slaves found more opportunities to appeal to the court and argue they had the right to be free.

#### Individual Rights

Notarial records and court cases from 1776-1853 demonstrated that the city of Córdoba was an agent of freedom. Despite the conditions of Córdoba's conservative environment, the State in both the colonial and national periods often tended to rule in favor of the slaves seeking their freedom. This trend in the colonial period can be attributed to the Church's influence. The laws of Siete Partidas and the Código Negro set the guidelines of the master/slave relationship, while still acknowledging that slaves were ultimately human property. Their humanity determined how they would be treated and the ways in which they could achieve their freedom. Due to the growing "social and political turbulence" at the end of the eighteenth and early nineteenth centuries, "slaves in the Americas perceived it was time to claim their personal freedom." The legal mechanisms in which they sought their freedom did not change, but a new meaning was ascribed to it, "one that implied the recognition of individual rights."<sup>41</sup>

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41. Keila Grinberg, "Freedom Suits and Civil Law in Brazil and the United States," *Slavery and Abolition* 22, no. 3 (December 2001): 78.



Table 3.1

Verdicts of Freedom Cases, 1776-1853

	N	Pct.
Slave	15	26.8
Free	41	73.2
Total	56	100.00

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.2

Verdicts of Freedom Cases in the Colonial Period, 1776-1810

	N	Pct.
Slave	5	31.2
Free	11	68.8
Total	16	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.3

Verdicts of Freedom Cases in the National Period, 1811-1853

	N	Pct.
Slave	10	25.0
Free	30	75.0
Total	40	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

From 1776-1853, 437 manumissions and 56 complete court cases took place. Notarial records revealed most slaves were granted their freedom in the colonial period with a total of 292. In comparison, 145 slaves achieved their freedom in the national period. Unlike notarial records where most slaves were freed during the colonial period, most court cases occurred in the national period. Of the 56 court cases, 16 were heard in the colonial period and 40 were heard in the national period. Of the 16 cases heard in the colonial period, eleven slaves were granted their freedom while five remained slaves (see Table 3.2). In the national period, 40 cases were heard, 30 slaves were granted their freedom while 10 remained slaves, (see Table 3.3). The difference in freedoms granted in the notarial records versus the court suggested that the colonial period was a more patriarchal society in which contestations from a slave would not amount to freedom. Instead, faithful and loyal service to their masters meant that freedom would ultimately be rewarded. In the national period, court cases were more prevalent. Slaves freed by the court suggest that slaves took more of an active role in seeking their freedom. The increase in amount of freedom cases during the national period revealed a slave's new understanding of individual rights.

Table 3.4

Reasons for Manumission, 1776-1853

Types of Manumission	N	Pct.
Self-Manumission	35	8.0
Faithful Service	52	11.9
Third-Party	113	25.9
Owner	35	8.0
Death of Owner	118	27.0
Masses	9	2.1
Conditional Freedom	28	6.4
Unk.	47	10.8
Total	437	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

The most common way to achieve manumission was the result of the owner's death (see Table 3.4). After faithful years of service and loyalty, the slave often was granted their freedom. Loyalty and faithful service to the owner also reflected larger implications of the State and societal relations. The State promoted a docile subject that would obey the law and demonstrate honorable behavior. These qualities ensured social peace and tranquility. Moreover, freeing their slaves at death ensured maximum utility by owners. Even after the death of an owner, slaves still may have had to continue to do service. These services included praying for their deceased owner in church or additional service for set number of years, as was the case in which a group of seven slaves in 1816 were granted their freedom, provided they worked for 12 more years.<sup>42</sup> In 1810, María Theodora Rodríguez received her freedom. Due to the fact that 1810 was in the midst of

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42. Archivo Histórico de la Provincia de Córdoba Protocolos Reg. 4, 447r-448v

political chaos in Europe, to ensure that Rodríguez received her freedom her former owner declared “from the departure of these Kings or until these Kings verif[ied] his death,” she would be free.<sup>43</sup>

Table 3.5

Legal Arguments, 1776-1853

Type of Argument	N	Pct.
Death of Owner	18	32.1
Indian Descent	8	14.3
Valued Rate	5	8.9
Payment	12	21.4
Patria	3	5.4
Law	4	7.1
Carta de libertad	6	10.7
Total	56	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

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43. Archivo Histórico de la Provincia de Córdoba Protocolos Reg. 3, 44r-44v

Table 3.6

Legal Arguments in the Colonial Period, 1776-1810

Type of Argument	N	Pct.
Death of Owner	11	68.7
Indian Descent	1	6.3
Valued Rate	0	0
Payment	0	0
Patria	0	0
Law	0	0
Carta de libertad	4	25.0
Total	16	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.7

Legal Arguments in the National Period, 1811-1853

Type of Argument	N	Pct.
Death of Owner	7	17.5
Indian Descent	7	17.5
Valued Rate	5	12.5
Payment	12	30.0
Patria	3	7.5
Law	4	10.0
Carta de libertad	2	5.0
Total	40	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Court cases also demonstrated similar mechanisms in the ways in which slaves sought their freedom in the colonial period. Out of 56 cases, eighteen slaves argued they had received freedom on the death of their owner, twelve claimed they had rightfully paid for it, eight argued on the basis of their racial background, six argued that they had been verbally told by their owner or had been issued a *carta de libertad*, five claimed their *tasación* or valued rate had to be adjusted, four claimed the law of *Vientres* or *libertos* which meant they were unjustly enslaved, and three argued for *patria* or slave soldier appeal (see Table 3.5). Interestingly, the majority of reasons for achieving freedom in the national period were based on the payment for freedom and the death of the owner (see Tables 3.6 and 3.7).

In 1811, Manuel Cortez went before the court to contest the continued enslavement of his 12-year-old daughter, María Juana, valued at 190 pesos. He had taken out a loan to pay for his daughter's freedom but had not paid it in full. As a result, the daughter was resold into slavery. Contesting this action, the *Defensor de los Pobres* represented the father. After a heated case, María Juana was granted her freedom provided that her father paid 3 pesos a month until the loan was repaid.<sup>44</sup> Nationalistic claims during the wars of independence, such as *la patria* or the slave soldier appeal were among the least reasons claimed by slaves. Scholars have often noted civic duty and citizenship as strong arguments that separated the national period from its traditional past.<sup>45</sup> Based on the notarial records, this was not the case in Córdoba. It was not just being a citizen who believed in *la patria*, but rather a loyal citizen who dutifully served their owner or paid their debts.

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44. Archivo Histórico de la Provincia de Córdoba. Escribanía 1, Legajo 441, Exp. 17 (1812)

45. Meisel, “‘The Fruit of Freedom’.”

Table 3.8

Manumission by Gender, 1776-1853

Gender	N	Pct.
Male	170	38.9
Female	260	59.5
Baby	7	1.6
Total	437	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.9

Manumission by Gender in the Colonial Period, 1776-1810

Gender	N	Pct.
Male	111	38.9
Female	174	59.6
Baby	7	2.4
Total	292	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.10

Manumission by Gender in the National Period, 1811-1853

Gender	N	Pct.
Male	59	41.7
Female	86	59.3
Baby	0	0
Total	145	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

The average freed person was a female mulata, between 16 and 30 years of age (see Tables 3.8, 3.9, 3.10). Females tended to be freed more often than their male counterparts. The tendency to free more females than males has been noted throughout Latin America. Scholars have attributed this to the lower market value of women compared to men and increased economic abilities for urban slave women to achieve self-manumission.<sup>46</sup> Other scholars have attributed this to the paternity/amorous theory, as children were more likely to free their mothers and the close domestic quarters of slave women and their owners meant increased daily interaction and cultivation of relationships.<sup>47</sup> For example, in 1811, María de la Cruz, a slave in the College of Monserratt filed for her freedom and that of her daughter. She had claimed “that her owner Don Marcos Ariza had taken her from her mother Juana de Monserratt. He then seduced her and her purity was compromised. Under these dishonorable conditions, Don Marcos Ariza bought her and she became his slave.” An innocent child, she argued, “I looked on his loving insinuations like a force that could not be avoided. I concurred with his wishes and desired

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46. Lyman Johnson, “Manumission in Colonial Buenos Aires, 1776–1810,” *Hispanic American Historical Review* 59, no. 2 (May 1979): 258–79; Orlando Patterson, *Slavery and Social Death*; Schwartz, “The Manumission.”

47. Frank “Trey” Proctor III, “Gender and Manumission of Slaves in New Spain,” *Hispanic American Historical Review* 86, no. 2 (2006): 313.



in time the effects that had resulted, but not being happy with this vagrant love, he had promised me freedom.”<sup>48</sup> The relationship described by María Juana labeled her as an innocent bystander. Subjected to the control of her owner, she became his lover but ultimately found that he did not share the same feelings. In seeking her freedom, she sought to publicly challenge the intimacy shared with her owner.

Their relationship resulted in two children between María de la Cruz and Don Marcos Ariza. As both his slave and the mother of his children, María de la Cruz posed a potential threat to the honor of Don Marcos Ariza. So much so, that Juana de Monserratt, María’s mother, begged the court to free her daughter. Out of fear, Juana proclaimed Don Marcos Ariza had plans to move her daughter to Buenos Aires where he could “without a doubt, circumvent the actions of my daughter and the providence of this court.” Yet, the court ruled in favor of Don Marcos Ariza, as Ariza was able to prove that María de la Cruz had previously run away and had stolen various items from the house. She had also left her children behind. Furthermore, Don Ariza argued, such accusations dishonored his character, as he had “sustained the creature with precise nourishment.”<sup>49</sup> Her lack of obedience to her owner caused the court to rule in favor of the master and ordered that she return to him.

Although more females were granted their manumission than males in Córdoba, my research is more in lined with Frank “Trey” Proctor III’s understanding of gender and manumission, which undermines the paternal/amorous relationship theory. Recently, Proctor III proposed that this theory be revisited, after he examined the gender of owners and the gender of the slaves they manumitted. Proctor III found in New Spain during the seventeenth century, that slaves and masters of the same sex had higher rates of manumission than slaves and masters of the opposite sex. My research reveals a similar pattern. Male slaves manumitted by male owners had a slightly higher rate, 87 compared to male slaves of female owners, 83. This was also true

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48. AAC Juicios Criminales, Exp 8, (1811)

49. AAC Juicios Criminales, Exp 8, (1811)

for females. Female slaves manumitted by female owners were 131, while 127 female slaves were manumitted by male owners. In both cases, the tendency is only slightly higher than its counterpoint. Nonetheless, these findings reveal that the paternal/amorous theory is not easily applicable as previously argued by scholars.<sup>50</sup>

Table 3.11

Family Third-Party Manumissions by Gender, 1776-1853

Gender	N	Pct.
Female	48	48.5
Male	41	41.4
Both	10	10.1
Total	99	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.12

Family Third-Party Manumissions by Gender in the Colonial Period, 1776-1810

Gender	N	Pct.
Female	41	49.4
Male	32	38.6
Both	10	12.0
Total	83	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

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50. Proctor III, "Gender and Manumission," 315.

Table 3.13

Family Third-Party Manumissions by Gender in the National Period, 1811-1853

Gender	N	Pct.
Female	9	50.0
Male	9	50.0
Both	0	0
Total	18	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Third-party manumissions by family members further question the application of the paternity/amarous thesis in Córdoba. Females were grandmothers, mothers, or aunts of the enslaved. Males were often the father or husband of the enslaved. They were not children, but rather adults who had freed their family members. The majority of the third party family members who manumitted slaves were women. Out of a total of 99 cases involving third-party family members, females numbered 48 and males were 41 and both (usually parents) totaled 10 (see Table 3.11). In the colonial period, females totaled 41 while males were 32 and both parents were 10 (see Table 3.12). The higher rate of third-party female family members points to the ability of females to earn money in the city of Córdoba. During the national period, both nine male and nine female family members equally freed their enslaved family members (see Table 3.13).

Table 3.14

Manumissions by Racial Categories, 1776-1853

Race	N	Pct.
Mulato	85	19.5
Pardo	12	2.7
Zambo	2	0.5
Black	19	4.3
Unk.	319	73.0
Total	437	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.15

Manumissions by Racial Categories in the Colonial Period, 1776-1810

Race	N	Pct.
Mulato	76	26.0
Pardo	9	3.1
Zambo	1	0.3
Black	18	6.2
Unk.	188	64.4
Total	437	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Table 3.16

Manumissions by Racial Categories in the National Period, 1811-1853

Race	N	Pct.
Mulato	9	6.2
Pardo	3	2.1
Zambo	1	0.7
Black	1	0.7
Unk.	131	90.3
Total	145	100.0

Source: Juicios Criminales and Eclesiásticos in the Arzobispado Archivo de la Catedral and Escribanías 1-4 in the Archivo Histórico de la Provincia de Córdoba

Manumission practices in the city of Córdoba, demonstrated that mulatos were most often freed (see Tables 3.14, 3.15, 3.16). Scholars, such as Carl Degler, have ascribed such practices to the “mulato escape hatch” theory.<sup>51</sup> This theory proposed that mulattos would have had more manumissions due to them being inherited, born into the household, or having a paternal/amorous relationship. This was different than blacks who were more often purchased rather than inherited and so fewer familial ties had been developed. In Córdoba, this theory could be applicable, especially during the colonial period where there is such a large difference between mulato and black manumission. Yet in Buenos Aires, Lyman Johnson found the mulato escape hatch theory did not work. Mulattos acquired by birth or inheritance had only the “slightest advantage” in securing freedom without payment.<sup>52</sup>

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51. Carl Degler, *Neither Black Nor White: Slavery and Race Relations in Brazil and the United States* (New York: Macmillan, 1971), 224–32.

52. Lyman Johnson, “Manumission,” 271–2.

The cases demonstrated that being labeled a mulato was not the most advantageous mechanism to achieve freedom. Instead, arguing that they should achieve the same racial status as Indians proved to be more advantageous. Two aspects became particularly important: Indian labor and their racial identity. If a person could demonstrate Indian blood on the maternal side, freedom could be achieved. This was based on the *Siete Partidas* and the *Código Negro* which argued that a mother's freedom transferred to the child. This was the case of María Guerra who, in 1811, fought for her freedom and that of her children and grandchildren. She argued that her mother was an Indian from the pampas. Witnesses further confirmed this relationship by arguing that María's mother was "a captured Indian." The *Defensor de los Pobres* successfully defended María's case and she was declared free, as well as all of her legitimate and natural descendants resulting from María's maternal lineage.<sup>53</sup>

Similar findings in colonial Chile, 1700-1810 also revealed that the strategy of racial re-labeling was a common occurrence. In colonial Chile, Indian litigants claimed to be zambos to avoid paying tribute and leave the *encomienda*. Conversely, mulatos, as in the case of Córdoba, claimed to be Indian in order to be freed. This practice of claiming another ancestry pointed to the ability to negotiate one's identity, demonstrating the transitory use of the racial categories among those that were castas. The subject in question achieved social mobility and legal recognition.<sup>54</sup> Moreover, these legal recognitions spilled into the realm of labor.

In 1795, José Eugenio Ascanibí, a musician who played the violin for the Santa Iglesia Cathedral claimed his owner, Dr. Don José Antonio Ascanibí granted him his freedom on his death. Furthermore, based on the clause in his will, Don Ascanibí had left José "agregado" to his nephew Don Pedro Arrendondo. It stated "Item. it is my desire, that the mulato Eugenio stays agregado to the referred my nephew Dr. Arrendondo, and that he be throughout his life a

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53. Archivo Histórico de la Provincia de Córdoba. Escribanía 4, Legajo 50. Exp. 11 (1817)

54. González Undurraga, "Carta de libertad," 6.

musician for the Church.”<sup>55</sup> For that reason, Don Pedro Arrendondo argued that José was a slave that had been granted to him in his uncles’ will.

Quickly, the case became focused on the term *agregado* or “attached” and its implications. Citing the will, both sides acknowledged that the deceased owner argued that José would remain *agregado* to the church. In efforts to stress that his status of *agregado* did not mean slavery, the Defensor de los Pobres claimed it was equivalent to the Yanacona Indians in Peru who voluntarily were attached to the haciendas but were free. Furthermore, he argued, “you cannot say with truth, that the Indians are slaves, but free and voluntarily *agregados* to the haciendas.”<sup>56</sup> This comparison to Indians signified a key understanding of racial and labor relations. Based on the law, Indians could not be slaves, but they could be contracted for their labor. Blacks and other castas, however, could be slaves.

José’s labor would be to play the violin in church for the rest of his life: for that reason, he was *agregado* to Don Pedro Arrendondo. But the attachment to Don Pedro Arrendondo did not make him a slave but rather a contracted laborer. “*Agregado*,” the Defensor further argued, “did not sound or indicate that he was slave, but rather a species of protection on the part of the patron and the client [relationship] which partook in modest services.”<sup>57</sup> As a patron of José, the Don Arrendondo would be in charge of making sure that José would fulfill his responsibilities. That was his only obligation, which also distinguished Don Arrendondo’s role. If he was to be the owner, then he would also be responsible for “dressing and feeding” José; that however was not mentioned. The court also agreed with Jose’s Defensor’s definition of *agregado*. The clause clearly implied José Eugenio would offer his servitude to be a musician of the cathedral during

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55. Arzobispado de la Catedral Archivo de la Catedral, Juicios Eclesiásticos (1795).

56. AAC Juicios Eclesiásticos, Exp 13 (1795)

57. AAC Juicios Eclesiásticos, Exp 13 (1795)

his life.” As a result, the court declared “the mulato Eugenio is not a slave of Dr. Don Pedro Arrendondo or of Our Church Cathedral.”<sup>58</sup>

The fight for freedom ended in 1853 when Governor Alejo Carmen Guzmán ordered owners of slaves in the city to present their slaves within 30 days to the Police Department. Owners elsewhere in the province were given three months.<sup>59</sup> This, however, was not an easily enforceable law. Gray areas arose as *liberto* children were not directly addressed in the constitution. Born of slave mothers who had been automatically manumitted by the Constitution, but the Constitution failed to mention what would happen to *liberto* children. Throughout the national period, *libertos* had been a neutral label to ensure owners’ property rights were protected and the humanity of slaves was recognized. This transitional position however, was not taken into account. This was probably due to such a small, if still existing, population in the confederation by 1853. In the 1840 city of Córdoba census, there were 423 slaves and no *libertos* out of 11021 inhabitants.<sup>60</sup>

Even with gray areas, some owners were blatant about not giving up their slaves. As late as 1854, an owner still refused to give up his slave. Even as the slave’s mother argued that her daughter deserved to be free and that the law demanded it, the owner argued that the slave’s labor was needed for the harvest.<sup>61</sup> Officially ending four centuries of forced labor, the Confederation of the United Provinces had decided the rights of owners would no longer apply to slaves’ lives.

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58. AAC Juicios Eclesiásticos, Exp 13 (1795)

59. Turkovic, “Race Relations,” 205–8.

60. Archivo Histórico de la Provincia de Córdoba. 1840 Censo de la Ciudad de Córdoba

61. Archivo Histórico de la Provincia de Córdoba. Escribanía 4, Legajo 114, Exp. 3 (1854)



## Conclusion

Abolition in Córdoba, Argentina ultimately transferred human property into free individuals. The steps to being free were long and often arduous. It began with the acknowledgement of them being humans and property. This alone created an antagonistic relationship. In order to have some sense of compromise, the State enacted various laws that protected owner's property at the same time acknowledging a slaves' humanity. The agreement in many ways allowed for both (slave and owner) to maintain a functional relationship. When and if the law was violated, slaves could go before the court and plead their cases. This ability to appeal to the State continued throughout the national period but the meaning on which slaves went to the court had changed. In the colonial period, slaves based their arguments on a patriarchal state that had failed to provide the slave with adequate care, or they had faithfully served their owner and had been promised their freedom. In the post-colonial period, they argued for their individual rights. As an individual and eventual citizen, they were guaranteed the right to be free. Similarly the reasons for becoming free, in the colonial period, that is the promises of their owner, continued to bring success for the slave in the national period. The difference, however, was that slaves in the colonial period based their argument on a paternal state, while slaves in the national period based it on their right to be free. By means of the court or manumission, both self and gratuitous, former slaves became freed. Now freed people, they had to adjust to their new identity and continue to partake in the making of the Argentine nation.

## CHAPTER 4

### Mestizaje: Córdoba's Patria Chica

On October 27, 2010, Argentina held a historic national census, which included a racial category for the first time in over 100 years. Its incorporation included categories for Indians and Afro-descendants. The government declared “together with other committed countries, [it] has given an answer to the statistical operational plan, not only to abide by international agreements, but with a debt to the large data, that exists for certain sectors of the Argentine population.” The sample question posed: “You or someone in this house is an Afro-descendant or has Afro-descendant or African heritage (father, mother, grandparents, great-grandparents)?”<sup>1</sup> The reasoning on which the census included a racial category began in 2005 when the Instituto Nacional de Estadística y Censos first approached the topic. They decided to conduct a pilot census in select areas around Buenos Aires to demonstrate that a black population did exist. The results of this pilot census concluded roughly 2 million Argentines were Afro-descendants.<sup>2</sup>

“What happened to the black population in the Argentina?” inquires into various myths. Some of the more popular ones suggest that the black population “disappeared” because of the wars independence, genocide measures by the State, migration, or the yellow fever outbreaks in the late nineteenth century. These explanations have proven to be false but the curiosity continues to drive the scholarship.<sup>3</sup> In response, scholars have focused on Buenos Aires to propose the following four theories: the end of the slave trade in 1811, continued civil wars in the nineteenth

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1. *Argentina tiene mucho para contar: Gracias a vos el censo fue un éxito* ([Http://www.censo2010.indec.gov.ar/index\\_afro.asp](http://www.censo2010.indec.gov.ar/index_afro.asp), 2010). The concept of Afrodescendent refers to slave descendants, Africans, those who have African ancestors, or those who consider themselves to be black or Afro-Argentine, or a part of the African Diaspora.

2. *Afrodescendientes y el Censo 2010*, <http://inadi.gob.ar/2010/10/afrodescendientes-y-el-censo-2010/> (2010).

3. Andrews, *The Afro-Argentines*; Marta Goldberg, “Mujer negra rioplatense (1750–1840),” in *La mitad del país: la mujer en la sociedad argentina*, Lidia and Marta Panaia Knecher (Buenos Aires: Centro Editor de América Latina, 1994), 67–81; Goldberg, “La población negra”; Lewis, *Afro-Argentine Discourse*.

century, which caused gender imbalance, miscegenation, and low birth rates and high infancy mortality rates.<sup>4</sup> This Buenos Aires narrative has dominated the field and has served to explain the entire black experience in Argentina. Yet, this accepted narrative cannot explain the experience of blacks in other parts of Argentina.

This chapter examines the case of Córdoba to reveal that while acknowledging similarities with the port-city, understanding the effects of regional differences to explain the black “disappearance” in Argentina will provide a more comprehensive understanding of the black experience. It takes into account the first half of the nineteenth century during the formative years of nation-building. To what extent and how uniformly a national identity existed in the first half of the nineteenth century influenced the nature of the black experience and eventual “disappearance.” Racial studies have often reflected the Buenos Aires experience, and in particular, present the basis for arguing the extent and nature of the Argentine national character.<sup>5</sup> Scholars who use the case of Buenos Aires to understand race in Argentina, have created the notion that the Argentine national identity followed a teleological path. Furthermore, the lack of a racial rhetoric in Argentine nationalism further purports the notion that blacks were absent from the nation making process. Instead, the reality of creating a nation in the nineteenth century was a more complex than compromising. This is especially seen in the interior where colonial culture, patriarchy, and traditionalism, remained particularly strong in the republican period. The focus on Córdoba will contribute two key aspects to the historiography. First it will expand upon the geographical boundaries of race and nation and second it will explain the black “disappearance” in the interior.

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4. Andrews, *The Afro-Argentines*, 5.

5. Tulio Halperín Donghi, “Argentines Ponder the Burden of the Past,” in *Colonial Legacies: The Problem of Persistence in Latin American History*, Jeremy Adelman (New York: Routledge, 1999), 151–74; Nicolas Shumway, *The Invention of Argentina*; Romero, *A History of Argentine Political Thought*.

Primary sources used to describe these processes are the 1813, 1822, 1832, and 1840 censuses of the city of Córdoba; all but the 1840 census provide racial information. Gender, condition (slave or free), and race, will be analyzed and used to address the established theories of the African descendants' disappearance. Furthermore, the data will be used to test the theory of racial relabeling often cited for Buenos Aires, a process used to lighten, if not whiten the black population. These four censuses marked a negotiating relationship between racial and national identities in Córdoba, Argentina. Understanding this relationship is crucial to examining how blacks fit into the nation and, further, how the black population "disappeared." The case of Córdoba will provide an alternative perspective to black experience in the Río de la Plata.

These censuses serve as key benchmarks in cordobés' racial and national history. In particular, the 1813 census was conducted the same year as the slave trade ended and the enactment of the *Libertad de Vientres* (Free Womb Act). Thus, this census provides a base line for the population of color until 1832, the last census to account for race. The 1813 census was conducted during the wars of independence. The 1822 census was conducted shortly after the declaration of cordobés independence in 1820. Although the wars for independence against royalists had evolved, civil wars ensued. The question of national identity spurred on the competition among strong men or caudillos. This competition was exasperated by the adversarial ideologies of Federalists and Unitarians. In simple terms, Federalists espoused provincial autonomy with countryside support, while Unitarians stressed centralization and found resonance among urban sectors.<sup>6</sup> In the 1820s, Córdoba, similar to the rest of the interior, came under the control of Federalists. They had banded together against the Unitarian control in Buenos Aires. In Córdoba, both political ideologies, Federalism and Unitarianism, had to cater to their diverse and large casta population, as they needed a continuous supply of manpower to fight the ensuing civil wars and territorial expansion. This relationship formed between caudillos, strong men who led and the masses marked how blacks and people of color fit in the nation building process.

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6. Nicolas Shumway, *The Invention of Argentina*, 43.

The year 1832 marked the end of José María Paz's Unitarian rule 1829-1831 and the return to Federalism in Córdoba. The opposite had occurred in Buenos Aires, which was now under the control of the Federalist Juan Manuel Rosas. In return, blacks loyally served Paz and Rosas. The ways in which they interacted with their black constituents determined the dynamic and often imbalance nation making process in Argentina. Although both caudillos had made a space for their black populations, Paz's relationship with his black soldiers often spilled into their social conditions; this was not the case with Rosas.

In 1840, race was no longer counted in the city census. This marked a transition in the racial and national relationship. The elimination of the racial category corresponds to a growing rhetoric found primarily among the members of the Generation of 1837. This group of intellectuals, originated as a Literary Society, and formed an ongoing critique of their country's political development. They provided an explanation for the country's problems and plans to modernize Argentina.<sup>7</sup> Their writings revealed where and how people of color would fit into the nation. Intellectuals such as Domingo Sarmiento and Juan Bautista Alberdi, respectively from the interior, San Juan and Tucumán, and Esteban Echevarria belonged to this literary club. These intellectuals would later become key figures in the consolidation of the Argentine State process in the late nineteenth century.

#### Mestizaje vs. Homogeneity: Competing National Paradigms

The growth of nationalism at the beginning of the nineteenth century transformed subjects into citizens. Nationalism consumed all citizens no matter their skin color, gender or parentage, because any could prove their loyalty to it by giving the ultimate sacrifice, dying for one's country.<sup>8</sup> In Argentina, society's diverse needs required various paths of nation-building strategies. These paths were based on local understandings of patriotism, an affinity for the "patria chica," which instilled a "strong local sense of place and pride." This patriotism involved

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7. Nicolas Shumway, *The Invention of Argentina*, 112.

8. Anderson, *Imagined Communities*, 130–32.

“a demand for political liberty,” and cannot be defined as nationalism, which appealed to the “organic unity of the people.”<sup>9</sup> The reality of the United Provinces of the Río de la Plata after independence was the creation of “patrias” or regions that were associated with provincial territories.<sup>10</sup> However inaccurate, a national rhetoric has been used to describe regionalism that developed at the beginning of the nineteenth century. Furthermore this nation-building experience has been described as a process of homogeneity.

Homogenization has often been used to describe the Argentine nation building process.<sup>11</sup> Homogeneity in the nation-building process promoted “an assimilation of skin-color, gender, parentage, and age” all things that people cannot control.<sup>12</sup> This, however, is a reflection of the Buenos Aires experience. To be fair, Buenos Aires would become the hegemonic power over the course of the nineteenth century. It had imposed independence on the interior, such as Córdoba, and its economic and military dominance further made it so that there were few, if any, successful challenges. For that reason, the scholarship tends to view the nation-building process from that angle. Yet, homogeneity was more than a narrative. By focusing on the interior, a more complex and nuanced understanding of nation can be further explored.

In the interior, mestizaje rather than homogenization, developed. Often associated with the cultural understanding of the twentieth century, less attention has been given to this process in the early nineteenth century. Córdoba’s experience, however, reflected mestizaje. Mestizaje, defined as interracial or intercultural mixing, became a recurrent theme during the nineteenth century, and linked to “americano.” The americano separated itself from its Spanish heritage,

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9. Seth Meisel, “War, Economy, and Society, Post- Independence Córdoba, Argentina” (Stanford: Stanford University, 1999), 11.

10. Meisel, “War, Economy, and Society,” 12.

11. Mónica Quijada, “El Paradigma de la Homogeneidad,” in *Homogeneidad y Nación con un Estudio de Caso: Argentina, Siglos XIX y XX*, Mónica Quijada, Carmen Bernard (Madrid: Consejo Superior de Investigaciones Científicas Centro de Humanidades, 2000), 15–56.

12. Anderson, *Imagined Communities*, 130–32.

both physically and culturally.<sup>13</sup> The americano discourse espoused liberal ideas of citizen equality. Liberalism further provided a marked understanding of a “raceless” individual that could patriotically participate in the making of nation. As a result, the americano broke away from his colonial subjectivity past and emerged as a citizen.

At the same time, mestizaje evoked both sameness and hierarchical difference. Mestizaje provided for post-colonial elites in Córdoba the ability to acknowledge racial equality in times of national crisis, such as independence, but maintain a traditional racial hierarchy in the republican period. This characteristic allowed for both social equality and inequality. By virtue of this dichotomy, mestizaje involved both the characteristics of homogeneity, which would dominate the national discourse, while at the same time acknowledging its diversity within a hierarchal status. The word *pardo* illustrated this reality.

The word *pardo* has been used to describe a person of mixed descent. According to Reid Andrews it was used to replace the harsher terms of *mulato* and *negro* to describe a person of black ancestry at the end of the eighteenth century.<sup>14</sup> In Córdoba, however, Emiliano Endrek argued *pardo* was applied to a mixed person regardless if they were of African descent. All races, “mestizos, mulatos, zambos, and chinos” ended up being engulfed into the general designation of “*pardo*,” maybe because of the difference scribed in the tanned tone of their skin, or maybe it was because the mixture [between the races] were so complicated that in many cases they did not know what to call them.<sup>15</sup>

My analysis further concurs with Endrek. Throughout archival data, in particular court cases from the late eighteenth and early nineteenth centuries, the same people often *mestizos* or

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13. Lourdes Martínez-Echazábal, “Mestizaje and the Discourse of National/Cultural Identity in Latin America, 1845–1959,” *Latin American Perspectives* 25, no. 100 (May 1998): 21. Most scholarship apply *mestizaje* to the early 20th century. This application applied to the cultural understanding of the nation and used as a response to the Positivism and Social Darwinism.

14. Andrews, *The Afro-Argentines*, 8–9.

15. Endrek, *El mestizaje en Córdoba*, 27.

mulatos, would interchangeably be referred to as pardos. This flamboyant use of pardo and other racial categories meant that pardo would come to mean person of color or casta in Córdoba. The censuses further revealed that as the nineteenth century progressed, black, Indian, mestizo, and mulato populations decreased and appear to have become lumped into the encompassing category of pardo, whose population increased exponentially. Based on tracing the lives of Indians and mestizos, this trend becomes increasingly evident. From 1813 to 1822, and then again from 1822 to 1832, the documentation consistently revealed that Indians were being relabeled pardos. Those individually categorized as mestizos and Indians, respectively (19 mestizos and 56 Indians) in 1813, and who remained in 1822 became pardos. Those formerly labeled as free Indian females now become free pardas. In turn, those who in the 1822 census were listed as mestizos and Indians became pardos in the census a decade later.

The turn toward the use of pardo was an outgrowth of Córdoba's different racial labeling, compared to the experience of Buenos Aires. In Buenos Aires, a new term "trigueño" appeared at the beginning of the nineteenth century. Trigueño, or wheat-colored, was applied to those that were "dark-skinned." It referred to mulatos, mestizos, zambos, or certain Europeans, respectively Sicilians, Andalusians or Portuguese. The term began to appear in Buenos Aires censuses during the beginning of the nineteenth century. Documents such as lists of prison inmates, city employees, and army recruits also utilized the term. Individuals labeled trigueño "provided an avenue of escape, [or an] exit through which Afro-Argentines could leave the black category completely."<sup>16</sup> If that was a possibility in Córdoba, the ways in which blacks would have escaped being labeled black was through the assigned label "pardo." Because the only reference to trigueño found in the Córdoba was in reference to military personnel.<sup>17</sup> It was not found in the city of Córdoba's censuses.

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16. Andrews, *The Afro-Argentines*, 87, 84–87.

17. Turkovic, "Race Relations," 248.



My research traced the lives of blacks in the 1813 to 1822, and the 1822 to 1832 censuses in order to test if relabeling blacks may have contributed to the disappearance of that population. All characteristics, name, origin, and gender, had to be the same in order to determine if they were the same person. Taking into consideration that age might not be exact, but the rest was consistent, there was an allowed deviation of two years in order to account for the lack of inconsistency at that time. Additionally, nationality could change from Africa to Córdoba or American. This was indicative of someone whose origins were from Africa but years later, especially after the independence, became “American.”

In the 1813 census there was a total of 525 blacks. These were then traced into the 1822 census. Of the 525 blacks originally listed in the 1813 census, 14 were found in the 1822 census, suggesting a good amount of population circulation. Still, the results clearly indicate racial relabeling. Those originally listed as black slaves were now pardo libres or pardo slaves in 1822. Formerly free black females had become free morenas. In only four instances did racial classification stay the same, and they were all males.

The data found in the 1822 census, lagged into the 1832, tell a similar story. In 1822, there were 647 blacks listed in the census. The increase in the black population found in 1813 could have been a result of the children who had been listed earlier. In 1813, there were 106 within the age cohort of 0-10 and 131 within the group 11-20. In 1822, there was an increase of black children; 190 were listed with ages 0-10 and 166 within the 11-20 age range. Of the original 647 blacks, 24 were found in the 1832 census. All of these blacks whether slave or free, men or women, became pardos.

By 1840, only eight of the 102 individuals listed as blacks in the 1832 census were placed under the same racial label. Although race was no longer listed, their condition, age, and place of origin made them easily detectable. Only one African-born slave was listed and retained his status into 1840. Córdoba's post-colonial heterogeneous society, at least in the view of state officials,

had been transformed into a homogeneous nation, as racial categories were no longer used to describe citizens in the city of Córdoba.<sup>18</sup>

#### 1813: Post-colonial Heterogeneity

The second decade of the nineteenth century signaled new forms of social mobility for black and casta populations. In 1810, the United Provinces of Río de la Plata began the fight for independence. It was followed by the prohibition of slave imports in 1811 and the enactment of the Law of Free Wombs in 1813. These pieces of legislation marked the beginning of the gradual abolition of slavery in Argentina. As the United Provinces fought for political liberation, blacks and castas would exercise their rights as citizens and active participants in the nation.

After the abolition of the slave trade in 1811, any slave that touched the Río de la Plata territory was immediately freed. This included those brought by a trader or on their own free will.<sup>19</sup> However, by 1814, revisions had to be made to this law to appease Brazilians who “complained that a number of their slaves had fled south after hearing they could win their freedom.”<sup>20</sup> In order to comply with their neighbors to the north, all Brazilian slaves entering the Río de la Plata would be returned. Further loopholes to the law included taking pregnant slaves outside of the country to give birth so that their children would maintain the status of liberto. By 1816, legislation declared this practice illegal, although it was rarely enforced. Additionally, domestic slaves entering with their owners would retain their status. The resulting influx of slavery, however, caused the provincial government in 1824 to outlaw this practice. Based on a sample of the 1827 census, “two-thirds of the Africans who had entered the city after 1812 were slaves, a higher proportion than among Africans brought to the [Buenos Aires] during the slaving

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18. Lourdes Martinez-Echazábal, “Mestizaje and the Discourse of National/Cultural Identity in Latin America, 1845–1959,” *Latin American Perspectives* 25, no. 3 (May 1998): 15.

19. Andrews, *The Afro-Argentines*, 49.

20. Andrews, *The Afro-Argentines*, 54.

years prior to 1813.”<sup>21</sup> This indicated that blacks were not granted their freedom upon the entrance into the Río de la Plata.

Table 4.1

Slave Origins in the City of Córdoba 1813

Place	Free	Slave	Liberto	Unk	Total
Africa	2	105	0	1	108
Buenos Aires	11	11	0	0	22
Córdoba	2903	1534	3	143	4583
Total	2916	1650	3	144	4713

Source: 1813 Census of the City of Córdoba in the Archivo Histórico de la Provincia de Córdoba

Instead, many slaves were brought in illegally. Contraband trade figured prominently in slave transactions. Most contraband trade came from Brazil, from where an estimated 2,500 slaves were introduced annually into the River Plate after 1800.<sup>22</sup> The 1813 census, however, does not note a black slave from Brazil. This indicates that slaves who entered the Río de la Plata were not reported on official state documents. Based on the origins of the slave population: 11 came from Buenos Aires, 105 came from Africa, and 1,534 were from Córdoba (see Table 4.1). These numbers revealed that the slave population’s origins were primarily born in Córdoba. Additionally, few slaves from the other areas stayed in the city. More than likely, they stayed on a temporary basis and then proceeded to Potosí, Mendoza, or Chile, a common trade route in the Río de la Plata.

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21. Andrews, *The Afro-Argentines*, 54–56. The war with Brazil from 1825-1828 provided another way to subvert the law. Privateers fighting for Argentina captured Brazilians ships and sold their cargo to porteños. Slaves first sold at 50 pesos each. Following protests from privateers, the price was raised to 200 pesos each seven months later. After four years of military service these slaves would be set free. Slaves that could not fight became libertos and sold to patrons from the government. The libertos had to serve their owners for six years or until 20 years old.

22. Turkovic, “Race Relations,” 112–13.

Table 4.2

Racial Categories in the City of Córdoba in 1813

Race	N	Pct.
White	3511	41.6
Black	525	6.2
Indian	56	0.7
Mulato	62	0.7
Mestizo	19	0.2
Zambo	6	0.1
Pardo	4117	48.8
Moreno	15	0.2
Unk.	129	1.5
Total	8440	100.0

Source: 1813 Census of the City of Córdoba Archivo Histórico de la Provincia de Córdoba

In 1813, the city of Córdoba proved to be a heterogeneous population. Of its 8,440 inhabitants, nearly all were racially classified and were distributed in the following categories: 41.6 percent were Whites, 6.2 percent were Blacks, 0.7 percent were Indians, 0.7 percent were mulatos, 0.2 percent were mestizos, 0.1 percent were zambos (mixture between Black and Indian), 48.8 percent were pardos (mixed descent), and 0.2 percent were morenos (brown skinned) (see Table 4.2). In sum, almost 60 percent of the Córdoba's population was of color. The significant presence of a pardo population, almost 50 percent, represented an acknowledgment of a growing segment of the population that did not fit into the traditional mixed-raced categories. The mixture among whites, indigenous, and blacks had produced an indiscriminate group of people.

In 1813, castas comprised of 58 percent of the city's population. To incorporate its majority casta population, yet maintain racial hierarchy, elites espoused mestizaje. While elites

acknowledged their majority casta population, they also curbed its ability to advance socio-economically. The most blatant obstacle was the reinforcement of *limpieza de sangre* (clean blood, which referred to white purity), as a condition for advancement. For example, clean lineage became a key argument to object to the marriage between unequal people.<sup>23</sup> Legislation also contributed to this marginalization, as castas could not occupy public places, or carry arms, receive an education, or wear clothes out of their class. Furthermore, they could not live among Indians. The control of mestizos represented the concerns of elites who saw in castas an element of disorder. Known as vagrants and thieves, officials often targeted castas and argued they had to carry identification in order to avoid jail sentences.<sup>24</sup>

Although the Law of Free Womb argued that all children born of slave women would be free, the 1813 census did not reflect such legal principle. Of the 125 babies born in that year, 20 were labeled slaves, 52 were labeled free, and three were labeled *libertos*.<sup>25</sup> A *liberto* was the “freed” slave born to a slave mother. In total, there were three *libertos*, two males and one female. Two were 50 and 5 years respectively. These exceptions can be attributed to mistakes by census takers. The absence of a *liberto* class further suggests that census officials held on to the bi-model classification of slave or free.

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23. Jeffery Shumway, “‘The Purity of My Blood Cannot Put Food on My Table’: Changing Attitudes Towards Interracial Marriage in Nineteenth-Century Buenos Aires,” *The Americas* 58, no. 2 (October 2001): 202.

24. Turkovic, “Race Relations,” 54–55.

25. Archivo Histórico de la Provincia de Córdoba, Censo de la Ciudad de Córdoba (1813).

Table 4.3

Classification of Castas in the City of Córdoba in 1813

Class	N	Pct.
Free	3058	36.2
Slave	1715	20.3
Liberto	3	0.1
Unk.	3664	43.4
Total	8440	100.0

Source: 1813 Census of the City of Córdoba Archivo Histórico de la Provincia de Córdoba

Additional analysis of the 1813 census revealed that of the 4,776 people whose condition was identified, 36.2 percent were free, 20.3 percent were slaves, and 0.1 percent were libertos (see Table 4.3). Statistics further revealed that there were more slaves among the black population than those who were castas. There were 448 black slaves in comparison to 72 who were free. This is the opposite for the casta population as there were 1246 slaves and 2954 free people.<sup>26</sup> Such differences indicate the impact of foreign born slaves. All African born residents were classified as black except 2. Out of a total of 525 blacks in Córdoba in 1813, 21 percent had come from Africa, accounting for the disparity between black slaves and free blacks.<sup>27</sup>

In 1813, Córdoba had a gender population of 61.3 percent females and 38.6 percent males, which amounted to a gender ratio of 1.6 females to 1 male.<sup>28</sup> Broken down by race, gender ratios held reasonably constant: 1.4 to 1 blacks, 1.6 to 1 whites and 1.6 to 1 among people of color.<sup>29</sup> The consistency of gender ratios across races reflected a female demographic dominance.

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26. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba.

27. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba.

28. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba.

29. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba.

Close examination of this gender ratio within the black community is a key to testing the theory of disappearance in the years to come.

New legislation passed by the State in 1811 and 1813 marked the turning point towards the gradual abolition of slavery. That year's census takers provided the picture of a mestizaje society both phenotypically and socially. It represented the antithesis of the portrayed notion of a static and stifling colonial system, struggling for its own path to political development.

### 1822: Nation Building

Two years after declaring its independence in 1820, the city of Córdoba conducted its first census. Although the wars of independence had ended, the task of nation-building just began. Unable to compromise on the divisive issues based on regional and cultural differences, the United Provinces of the Río de la Plata dissipated into civil wars. As the independence movement came to a close, the differences among the territories undermined the utopian unified movement. Patrias chicas developed throughout the Río de la Plata, coalescing into two competing governmental paradigms, Federalism and Unitarianism. Federalism argued for a nation based on their Catholic legacy, in which the "americano" was the central figure in the economy and culture. In particular Federalists argued for provincial powers at the core of domestic governance, while the Federal government undertook international and diplomatic endeavors. Unitarianism argued for a strong central authority. Key to their understanding of a new nation was the international element.

European ideas and human stock would bring progress and civilization to Argentina. Although in principle the Federalists were committed to provincial autonomy and the Unitarians to centralism, in practice, personal and economic rivalries blurred ideological distinctions between the two groups.<sup>30</sup> After a period of sectarian struggles throughout the 1820s and early 1830s, Córdoba, la patria chica, became federalist once again. Its initiation into federalism,

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30. Nicolas Shumway, *The Invention of Argentina*, 43.

however, had taken place in the 1810s. Federalism in the interior provided a united front to the littoral regardless of their affiliation to Unitarian or Federalist control. Federalism in the interior further acknowledged their American--that is, creole--composition included all races. Federalists championed a populist rhetoric because it included all social constituencies of the nation, regardless of race or class; and it stressed the belief that the interior must maintain their federalism as it accurately defined an American Argentine culture.

The root of creole Argentine populism was José Artigas.<sup>31</sup> Artigas was a popular caudillo from the Banda Oriental. He argued that Europeanized internationalist political liberal elites in Buenos Aires, did not represent the people.<sup>32</sup> In 1815, Córdoba became Federalist under Artigas. Unlike the other areas controlled by Artigas, Córdoba lacked access to the navigable rivers close to the Atlantic and could not compete with Buenos Aires. Buenos Aires would remain vital to Córdoba's economic activity because it was the only port in which Córdoba could reach the European market. Uruguay and the other littoral provinces were able to use Montevideo.<sup>33</sup> Nevertheless, during the first decade of independence Córdoba became the most populous and politically important jurisdiction of federalist sentiment.<sup>34</sup>

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31. Nicolas Shumway, *The Invention of Argentina*, 48.

32. Nicolas Shumway, *The Invention of Argentina*, 53–54, 58–59, 66. Artigas named himself the Protector of Uruguay, Entre Ríos, Corrientes, and Santa Fe. The League of Free Peoples of the Littoral in 1815 adhered to the themes of Argentine populism: protectionism in foreign commerce, economic as well as civic democracy, the political and economic inclusion of mixed-bloods, Africans, and Indians, and a pro-American, nativist impulse that occasionally hinted to xenophobia. It also did not want foreign merchants and investors getting involved in the domestic economy (a difference between Buenos Aires). Artigas promoted land distribution. He repeatedly sought to break up large haciendas in order to give land to his followers. No democracy could function in a society of many peons and few patrons. Artigas saw himself as a Federalist, and his federalism was more than the simple notion of equal provinces in a loosely bonded confederation, but it also imbued with a lower-class consciousness that claimed a place for workers, blacks, Indians, zambos and the low-born. He was also the first one to acknowledge the dangers of free trade posed for South America's fledgling industries and particularly for the interior provinces.

33. Ana Inés Ferreyra, "Córdoba en tiempos," 6.

34. Ana Inés Ferreyra, "Córdoba en tiempos," 7.



When ordered to attack federalist troops at the border of Córdoba in 1820, the Army of the North 7th Regiment commanders mutinied. The leader of the defection was a native of Córdoba, Juan Bautista Bustos, who led his troops into the capital and was soon declared governor by the Cabildo. On January 17, 1820, he declared Córdoba was a “free and sovereign province that does not recognize any dependents.”<sup>35</sup> Under Bustos, the economy in the early 1820s was based largely on military expenditures as Bustos defended his territory against José María Paz, a Unitarian caudillo, along with attacks from the Pampas and Chaco Indians who took advantage of the political turmoil.<sup>36</sup>

Scholars have previously argued that two of the main reasons for the disappearance of the black population were the wars for independence and the civil wars that followed. Deaths among black males, scholars argued, resulted in a detrimental gender imbalance. The census of 1822, however, showed a slight increase in the black population. Nearly 90 percent of Córdoba’s 9,668 inhabitants in 1822 were identified racially by the census takers. Of these 39.9 percent were white, 6.7 percent were black, 0.3 percent were Indian, 0.2 percent were mestizos, 40.1 percent pardos, 0.5 percent morenos, and 0.4 percent chinos. No mulatos or zambos were listed in this census; both groups were likely relabeled as pardos (see Table 4.4).

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35. Meisel, “War, Economy, and Society,” 14.

36. Meisel, “War, Economy, and Society,” 15.

Table 4.4

## Racial Categories in the City of Córdoba in 1822

Race	N	Pct.
White	3853	39.9
Black	648	6.7
Indian	32	0.3
Mestizo	19	0.2
Pardo	3876	40.1
Moreno	49	0.5
Chino	41	0.4
Unk.	1150	11.9
Total	9668	100.0

Source: 1822 Census of the City of Córdoba Archivo Histórico de la Provincia de Córdoba

However, this increase of the black population needs careful consideration, in light of the overall increase in the population and that those who arrived throughout the slave trade in 1812 had children, now registering in the city's records. The age interval for black children 0-10 had increased significantly from 106 in 1813 to 190 in 1822.<sup>37</sup> The end of the slave trade in 1812 had greatly affected the arrival of slaves from Buenos Aires or Africa, causing a strong decrease in the number of foreign-born blacks. Those brought from Africa had decreased to 46 from a previous 105. Slaves from Buenos Aires had also decreased, to 4 from 11. Moreover, their geographic persistence was very low as many were en route to another area. By 1822, the majority of slaves 1,085 had been born in Córdoba, a decrease from 1813, which counted

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37. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba; Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba.

1,534.<sup>38</sup>The free population had increased dramatically, while in 1813 2,903 were free, their number increased to 3,725 in 1822.<sup>39</sup>

In comparison to the 1813 census, both the white and pardo populations continued to be the majority. The white population decreased slightly from 41.6 to 39.9 percent by 1822, placing it on par with the pardo population which had greatly decreased from 48.8 to 40.1 percent. The black population stayed increased slightly from 6.2 to 6.7 percent. The Indian population had decreased from 0.7 to 0.3 percent, while the mestizo population stayed the same at 0.2 percent. The moreno population increased from 0.2 to 0.5 percent, but a new category, chinos came to being. Chinos were supposed to have had some indigenous blood. In the city they were often labeled mestizos while in the pampas they were labeled Indians.<sup>40</sup>

Table 4.5

Classification of Castas in the City of Córdoba in 1822

Class	N	Pct.
Free	3717	38.4
Slave	1135	11.7
Liberto	10	0.1
Criado	10	0.1
Unk.	4796	49.7
Total	9668	100.0

Source: 1822 Census of the City of Córdoba Archivo Histórico de la Provincia de Córdoba

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38. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba; Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba.

39. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba; Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba.

40. Manuel E Río, and Luis Achával, *Geografía de La Provincia de Córdoba Vol. I* (Buenos Aires, Argentina: Sud-americana de billetes de Banco, 1905), 377–79.

The 1822 census reported the condition. Following the trend of the 1813 census, Córdoba's population continued to show more free than enslaved people. Of the 9,668 inhabitants, 38.4 percent were free, 11.7 percent were enslaved, 0.1 percent were *libertos* and 0.1 percent were labeled *criados* that was a slave born in the household of a slave owner (see Table 4.5).<sup>41</sup> The free population in 1822 had slightly increased by 2.2 percent while the slave population decreased by 8.6 percent. The *liberto* population increased by 0.1 percent and a new category of *criado* appeared. Within the black population, 390 were free, 231 were slaves and seven were *libertos*.<sup>42</sup> In 1813, there were more black slaves than free blacks, a reflection of the end of the slave trade and the beginnings of gradual abolition. By 1822, slave conscription into the military with the promise of freedom by the State freed many slaves during the independence period. As for people of color, 2,907 were free, 773 were slaves and two were *libertos*.<sup>43</sup>

Based on the census of 1822, the trend of more females than males continued: 61.9 percent were females and 38.1 percent were males.<sup>44</sup> Similar imbalances were registered within different racial groups: 1.62 females to 1 black male, 1.41 females to 1 white male, and people of color 1.75 females to 1 male. Overall, the female population increased 1813 to 1822. Among blacks and people of color, female proportions increased by 0.3 percent and 0.6 percent, respectively. The white population's proportion of females to males decreased by 0.14 percent.<sup>45</sup> This is of particular importance because it calls into question the disappearance of the black community. Some have even declared that blacks were used as "cannon fodder," this belief came from the idea that blacks were put in the front lines. Reid Andrews, however, demonstrated this

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41. Proctor III, "Gender and Manumission," 320.

42. Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba.

43. Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba.

44. Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba.

45. Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba.

was not the case for Buenos Aires.<sup>46</sup> Nonetheless, the wars of independence did affect the black and casta populations.

Politically freed from Spanish rule, Argentines were tasked with the mission of creating a state out of various *patrias chicas*. In Córdoba, the Federalist party took control and dominated the political scene with its caudillos. Blacks and people of color aligned themselves with these caudillos in order to advance their social standing within society. In particular, two opposing caudillos, Juan Paz and Juan Manuel de Rosas used the black population to advance their contrasting national agendas.

### 1832: Caudillismo and the Afro-Argentine Community

The 1830s experienced the spread of caudillismo throughout most of Spanish America this was especially so in the United Provinces of the Río de la Plata. Caudillos had the ability to mobilize and direct armed men, a basic element of political power in the absence of a hegemonic state. Caudillos pitted against each at the local, provincial, and state levels. For most of the first half of the nineteenth century, caudillos' rule was based on their military prowess and their charismatic nature, which garnered support among the popular classes. The ability to pull from the popular classes allowed the caudillos and governors Juan Manuel Rosas 1829-1832, a Federalist, to rule surrounded by Unitarian forces and José María Paz 1829-1831, a Unitarian, to do the opposite in Córdoba. As a Unitarian, Paz was constantly surrounded by Federalist forces. Their ability to maintain control depended on their interaction with the popular classes, and in particular the black populations in their respective provinces. Nineteenth century caudillismo was

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46. Andrews, *The Afro-Argentines*, 121. Although black males were drafted in numbers disproportionate to their representation in the population, it does not appear that they were singled out. Based upon 1810-15 roll calls for several battalions, white units lost more men than black units.

a political phenomenon that drew resources and staked roots in rural life, a central aspect of the “ruralization of power” that took place in Spanish America in the wake of independence.<sup>47</sup>

By the end of the 1820s, new leadership arose after the wars in the Banda Oriental against royalist, Portuguese and Artigas. In Buenos Aires, Juan Manuel de Rosas rose to power in 1829, after defeating Juan Lavalle, a Unitarian. In Córdoba, José María Paz took control from Bustos, changing the patria chica’s allegiances from Federalist to Unitarian. Both men looked to advance their military prowess and political plans. With his strategic positioning in Buenos Aires and his ability to control the ports, Rosas was the most powerful caudillo. Being a Federalist however, did not prevent him from being challenged by interior Federalists, and of course, Unitarians. Challenged by both, Rosas had to play a delicate role in his administration of power. As a part of his designs to maintain control, he found support in the Afro-porteño community.

Rosas’s initial contact with blacks resulted largely from their participation in his estancia operations. Rosas, serving as ranch administrator for his cousins the Anchorena family, began buying slaves for their ranches in 1822. He continued the practice of employing slave labor and freed blacks on his own estates through the 1830s. An 1836 census of his eight ranchers in the partido of Monte shows that blacks comprised 29 percent of the total ranch labor force, 54 of 154 peones. Blacks formed a majority of 29 out of 46 workers on his second largest ranch.<sup>48</sup> As he grew in prestige and power, his need for a constant body of able soldiers further cemented his connections with the black community. A patron relationship ensued. The most reasonable explanation for the fact that blacks remained steadfastly loyal to the governor lies with the principle of reciprocal advantage. Afro-Argentines sided with Rosas since he made an evident effort to include them in his plans. By going to social functions, inviting the presidents of the African mutual aid societies to his residence, he included the black community in his nation-

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47. John Charles Chasteen, *Heroes on Horseback: A Life and Times of the Last Gaucho Caudillos* (Albuquerque: University of New Mexico, 1995), 92.

48. Richard Slatta, *Gauchos and the Vanishing Frontier* (Lincoln Nebraska: University of Nebraska Press, 1992), 34–35.

building project. Additionally, Rosas deliberately lavished gifts and attention, often through the intercession of Encarnacion [his wife] and Manuela [his daughter].<sup>49</sup>

José María Paz (1829-1831), similarly to Rosas, found himself in a city surrounded by Federalist enemies. His need for an active militia that would fend off his Federalist enemies led him to seek support from the popular classes which were largely composed of castas. Paz made special attempts to bring urban black artisans to his side by promising emancipation for those who served under him. In response to their loyalty, Paz often defended these black soldiers in matters of racial discrimination. He defended them against the stigma of their slave origins and their color. He also demanded proper respect for his officers. Paz granted them access to previously denied services such as education and established two government scholarships to support talented castas in the university. Moreover, he overruled the objection of a local priest to the marriage of one of his black soldiers and a white woman.<sup>50</sup>

General Paz and Rosas provide distinct comparisons in the ways they politically used their black communities. From a superficial level, it would appear that both caudillos served their constituents well. Moreover, they demonstrated a clientelistic relationship that had formed independent of the political tradition. In both regions, blacks focused on the personal relationship to with the man in charge and less on his ideology. In Córdoba, the majority was Federalists led by a centralist governor; in Buenos Aires a Federalist leader was surrounded by centralist enemies.<sup>51</sup> But further review of these two cities' national paradigms, mestizaje and homogenization, brings to light the differences in which Paz and Rosas engaged with the black community.

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49. Kevin Kelly, "Rosas and the Restoration of Order Through Populism," in *Revolution and Restoration: The Rearrangement of Power in Argentina, 1776–1860*, Mark Szuchman, and Jonathan Brown (Lincoln: University of Nebraska Press, 1994), 214.

50. Meisel, "'The Fruit of Freedom,'" 294–95.

51. Meisel, "'The Fruit of Freedom,'" 293–95.

Paz sought an acknowledgment of his black soldiers within society. His loyalty to them made him fight for them on and off the battle-field. His overall goal was not civil rights for his black soldiers, but rather addressing practical needs in order to maintain their support. This, however, caused him to step into their social conditions and address discrimination. In Rosas's Buenos Aires, hegemonic and economic powers superseded the needs of his black clientele. Ultimately, Rosas was found to be less effective to blacks' needs than his cordobés counterpart. The civil and national wars under Rosas's leadership had a disproportionate effect on blacks, especially in light of racially discriminatory military draft practices. The prolonged absence of black men during the wars, along with the death or disappearance of an unknown number of them, had a correspondingly blighting effect on the life of the community.<sup>52</sup> Moreover, Rosas reopened the slave trade briefly from 1831-1833, demonstrating his need for men to replenish the labor force and to fight the Brazilian war meant more than advancing the socio-economic positions of his black clientele.<sup>53</sup>

In both Córdoba and Buenos Aires, Paz and Rosas, respectively, used black soldiers, and that took its toll on the black population. The extent of gender division caused by civil wars has been noted to be a significant contributor to the disappearance of the black population. This argument, however, is contestable in the city of Córdoba. Gender analysis revealed that the female male ratio stood at 1.31:1. In Córdoba, the slight difference between the two sexes revealed that gender divisions were not based on the civil wars that took place from 1820. In 1813, the gender ratio among blacks had been 1.4:1, followed by 1.75:1 in 1822, and finally, in 1832, 1.3:1.<sup>54</sup> The greatest difference was registered in 1822. By 1832, the black population had generally declined at almost an equal rate for both males and females. Moreover, gender

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52. Andrews, *The Afro-Argentines*, 24.

53. Andrews, *The Afro-Argentines*, 74–75.

54. Archivo Histórico de la Provincia de Córdoba, 1813 Censo de la Ciudad de Córdoba; Archivo Histórico de la Provincia de Córdoba, 1822 Censo de la Ciudad de Córdoba; Archivo Histórico de la Provincia de Córdoba, 1832 Censo de la Ciudad de Córdoba.



differences among other groups they remained comparable to the previous censuses. In 1832 62.2 percent females and 37.7 percent males comprised Córdoba's population.<sup>55</sup> The gender ratio among whites was 1.47:1 and 1.82:1 among pardos.<sup>56</sup> In comparison to previous years, 1813 and 1822 the white gender gap increased in 1822 and then decreased in 1832. The pardo population's gender gap, however, steadily increased. By the end of the 1832, there were almost two female pardos to every male.

Table 4.6

Racial Categories in the City of Córdoba in 1832

Race	N	Pct.
White	4777	42.5
Black	102	0.9
Indian	481	4.3
Mestizo	5	0
Pardo	5685	50.6
Chino	1	.0
Unk.	177	1.7
Total	11228	100.0

Source: 1832 Census of the City of Córdoba Archivo Histórico de la Provincia de Córdoba

In 1832, the population comprised of 42.5 percent whites, 0.9 percent blacks, 4.3 percent Indians, and 50.6 percent pardos. (see Table 4.6). Other categories zambo, mulato, and moreno were no longer used. Instead, this demonstrates the term pardo was employed as a racial category. Pardo became a term that was being used to describe these castas. The black racial category

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55. Archivo Histórico de la Provincia de Córdoba, 1832 Censo de la Ciudad de Córdoba.

56. Archivo Histórico de la Provincia de Córdoba, 1832 Censo de la Ciudad de Córdoba.

clearly revealed a decline from the previous decade. In 1822, blacks had formed 6.7 percent of the population; by 1832 they barely comprised one percent.

Table 4.7

Classification of Castas in the city of Córdoba in 1832

Class	N	Pct.
Free	3623	32.3
Slave	674	6.0
Liberto	347	3.1
Unk.	6584	58.6
Total	11228	100.0

Source: 1832 Census of the City of Córdoba Archivo Histórico de la Provincia de Córdoba

As for the condition in 1832 32.3 percent were free people, 6 percent were slaves and 3.1 percent were libertos (see Table 4.7). A slight majority of free blacks over black slaves, 46 to 41 and one liberto, respectively, brings to question the freeing mechanisms available to them. In 1813, there had been more black slaves than free blacks; by 1822, however, this trend was inverted, as there were more free blacks than slaves. Yet in 1832, black slaves and free blacks are almost on par with each other. This is the opposite for the pardo population, in which the free far outnumbered the others, 3,570 free pardos, 563 slave pardos, and 261 libertos.<sup>57</sup> The increase of free people within the pardo population revealed that they had greater access to freedom than their black counterparts.

By 1830s, blacks played a crucial role in the political trajectories agenda of caudillos. Rosas and Paz both utilized their black soldiers to advance their careers. Surrounded by enemies on all sides, it became apparent that they had to cater to the popular masses and as such the black community became key players. In the case of Rosas, he saw an indistinct nation. Blacks

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57. Archivo Histórico de la Provincia de Córdoba, 1832 Censo de la Ciudad de Córdoba.

ultimately were just people who would fill his military ranks. In Córdoba, where mestizaje had a longer and more acknowledged tradition, Paz acknowledged that his black soldiers were more than bodies to fill the ranks of his armies. He pushed for socio-economic changes as that would ultimately guaranteed support among the black community.

#### 1840: Homogenization Takes Over

By 1835, Manuel López, a Federalist, ruled Córdoba. His reign would last until 1852. As a Federalist, he continued to live under a mestizaje “patria chica,” that promoted provincial rule and relative autonomy. Yet, pressures from the littoral transformed Córdoba’s patria chica’s mestizaje rhetoric. Buenos Aires’s homogenization project began to overshadow Córdoba’s mestizaje identity. This transformation began under the auspices of the Generation of 1837. After years of intermittent civil wars, the Generation ‘37 reflected on the course of development since the May Revolution of 1810. Not satisfied with the caudillismo, or strong men rule, they no longer saw any potential in United Provinces’ ability to govern and progress without looking for alternative ideas, many from Europe. Looking “outside” for these qualities meant that the inward-looking interior, in particular, needed to be brought along. Córdoba’s mestizaje society was not designed for progress.

One of the most prominent intellectuals of this group was Domingo Sarmiento who would become president of Argentina in 1868. Born in the interior province of San Juan, his coming of age took place within the environment of caudillismo and civil wars. Moving to Buenos Aires, he found like-minded people in the Generation ‘37. In general terms, they argued for a progressive government as an agent of change. They further argued for a “civilized” nation. Sarmiento, in particular, took up this task through his writings. Because he openly opposed Rosas’ government he left Buenos Aires. While in exile in Chile in 1847, he wrote “Facundo.” Now a classic, he argued for the end of “barbarism” and the promotion of “civilization.” “Barbarie” in the Argentine sense was based on the caudillismo and mestizaje paradigms. The American gauchos and castas could not offer the leadership of the nation he espoused. A civilized nation, by contrast, would be one based on a strong central state. Key to the success of the

civilization was its importation of European people and ideas. He formulated these ideas while traveling to Africa, the United States, and Europe.<sup>58</sup>

During these voyages, Sarmiento formulated his racial understanding. In particular the experience in the United States and Brazil shaped his views on race and nation. He returned to Argentina determined to stamp out *mestizaje* as it “has resulted in a . . . totality that [was] distinguished by its love of idleness and industrial incapacity.” He found in the United States an example of a progressive country which had a similar background. In particular, the ways in which the United States government dealt with its “barbaric” (Indian) population needed to be admired and emulated. He stated: “It may be terribly unjust to exterminate savages, to suffocate nascent civilizations, to conquer peoples who are in a privileged state of development; yet, thanks to these injustices [North] America, instead of remaining abandoned to savages, incapable of progress, is today occupied by the Caucasian race, the most perfect, the most intelligent, most beautiful and most progressive of races that populate the earth, thanks to these injustices.”<sup>59</sup>

His reference to the United States’ treatment of Indians set the tone for the permanent exclusion of indigenous people from the nation in Argentina. Moreover, Sarmiento distinguished the difference between Indians and Blacks. Indian “savagery” could not be a part of the national rhetoric as they were concentrated in the pampas, and remained in the backwardness of the countryside. Blacks, however, had a chance to be a part of the nation as they were concentrated in urban Buenos Aires. The “city constituted the center of ‘civilization’ and ‘progress,’ while the countryside represented lack of civility afflicting Argentina as well as the entirety of Latin America.”<sup>60</sup> Progress could not exist however in a nation that had slavery. After his travels in Brazil, he came to the conclusion that slavery and the nation could not exist peacefully. Sarmiento stated:

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58. Natalio R. Botana, *La Tradición Republicana: Alberdi, Sarmiento y las Ideas Políticas de su Tiempo* (Buenos Aires: Editorial Sudamericana, 1984), 263–71.

59. Martinez-Echazábal, “Mestizaje and the Discourse,” 25.

60. Martinez-Echazábal, “Mestizaje and the Discourse,” 25.

“The race serves as a safe slave of despotism, and the master does not dare to be free, because they feel removed the victim under his feet which in turn press. The traditional family, that haven of selfishness last article, it dissolves well, and the cancer of slavery degrades the domestic home, the dirty scoundrel at times, and [results in] the relaxation of all social links... The slave made a mandatory part of the family, the owner discovers with a negrero eye, race attractions to his young slave woman which makes him forget his conjugal duties; and in these houses almost always closed to strangers, like those nasty critters that do as they please in darkness and in the mud, a stupid war between husband and wife, sometimes whispers of which lady that he has had an affair with a slave, or wife suffers . . . continuously the atrocious jealousy, looking at her growing suspicious family that can be called brothers or fathers of their children.”<sup>61</sup>

Slavery was not only a detriment to the owner’s soul: slavery ruined the family dynamic in Brazil. In effect, the institution of marriage was threatened by their presence. It became a moral detriment to all involved. Yet, Sarmiento found that the product of black women and white men would ultimately have a place in the nation. Based on his experiences in Brazil, he argued mulatos would have the best of both races. The mulato provided an alternative to blacks as they would have the potential to be civilized. The mulatto, for Sarmiento, is “the link that binds civilization man to the uncouth one, a race inclined towards civilization, endowed with talent and with the finest aspirations of progress.”<sup>62</sup>

In reference to Brazil, Sarmiento wrote: this “virile [mulato] race keeps burning African blood, warmed to bubbling under the vertical rays of the sun, at the same time that the organization of his brain ties him to the European family. Dumas, Plácido, Petion, Barcala, those noble mulattos, living here all those remarkable men shine in the arts, music, poetry, and medical

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61. Domingo Sarmiento, *Obras de D.F. Sarmiento: Viajes por Europa, África I América 1854–1847 Tomo V* (Paris: Belin Hermanos, 1909), 67.

62. Sarmiento, *Obras de D. F. Sarmiento*, 67.

science . . . I pause . . . on the bright moral qualities of this breed . . .”<sup>63</sup> Sarmiento promoted racial mixture in order to rid negative effects of being “too black,” and have European civilizing qualities. Ultimately with time and miscegenation, former blacks could then become civilized and actively participate in the nation. For him, this act of racial mixture meant mestizaje but crucially, rather than acknowledging racial difference, Sarmiento’s goal was a whitening project. This process of blanqueamiento coincided with the consolidation of the State, which marked Buenos Aires’s hegemonic power by the end of the nineteenth century. Furthermore, blanqueamiento was the rhetoric that would dominate the national scene, ending “la patria chica” of mestizaje in Córdoba. The most evident indication of this new change in ideology started as early as 1840 with the removal of a racial category in the city of Córdoba census. Race could no longer be considered a factor, as that indicated differences which would not make a united nation and the successful consolidation of the State.

#### Conclusion

The answer to the question “what happened to the black population?” can be answered by understanding their place in the nation-making process. The existence of “patrias chicas,” rather than a comprehensive all-embracing nation means that regional differences must be taken into consideration. Two competing nation-building paradigms existed, one of mestizaje and the other homogenization. In Córdoba, the mestizaje tradition acknowledged racial diversity largely caused by miscegenation, within a hierarchal scheme. Over time, the black population decreased as the pardo population grew. By tracing blacks throughout the censuses of 1813, 1822, 1832, they revealed blacks were being racially relabeled as pardos. Pardos included all castas, Indians, mestizos, morenos, mulatos, and zambos, which meant that slowly over time, blacks became a part of the category that signified “otherness” i.e. anything but white. It was this process that largely described the “disappearance” of the black population. Pardo further transformed the rhetoric of mestizaje into homogenization. By the mid-nineteenth century, homogenization was

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63. Sarmiento, *Obras de D. F. Sarmiento*, 67.

becoming the dominant national rhetoric. Stemming from Buenos Aires and the intellectual Europeanized vanguard, this paradigm did not acknowledge racial diversity but instead argued for a raceless identity that would be transformed into a European nation in America. The Generation of '37 looked to the outside to form the nation and stamp out any racial group, especially the Indian who stood in the way.

## Conclusion

### Identities Cemented Recognition Remains

This dissertation has argued that people of color, largely of African descent, were active agents in defining their legal identities. By using the judicial system, including its intricacies and historical contradictions, African descendants challenged the State's assigned identities and created a space for themselves in the late colonial era and the foundational phase of the national period. The court served as a contact point where individuals negotiated their assigned identities and sought redress and justice. Cases presented in this dissertation demonstrated that people of color were well aware of their socio-economic conditions but did not allow their assigned identities to define their lives. Instead, they went before the court to seek changes in their legal identities that would ultimately reflect on their treatment by the State.

Several themes are addressed in this work and warrant further discussion. The first is sexuality and the formation of the family. Both were regulated by the Church which determined that sex and the family were sanctified only by marriage. Any alternative lifestyles went against the Church and were criminalized by the State. Together these two entities of social control, the Church and State, worked to prevent sexual activity outside of marriage. Yet, sexual scandals abounded period demonstrating that the Church's moral authority was frequently challenged and often subverted. This act of resistance came by way of sexual scandals that involved casta females. By participating in sexual acts that went against the Church, female castas formed alternative lifestyles that exposed them to greater flexibility and challenged gender roles. Considered to have little or no honor, women of color found cohabitation a more easily obtainable alternative to marriage, which above, all else, represented an expensive enterprise that protected one's wealth. Casta women did not have much to protect, especially if they were slaves. When caught for their illicit sexual activities, cohabiting couples had to flee to the hills where they could find some shelter and seclusion. Often left alone in secluded areas for long periods of time, women became responsible for keeping house and caring for the children.



An area in which the Church and State did not always agree, however, dealt with the legal jurisdiction of marriage. The concept of free will promoted and protected by the Church was not reliably supported by the State. Instead, the State firmly went against the growing population of unequal marriages or couples that were not economically, morally, or racially equivalent. The only way in which an unequal couple could marry was by making an appeal to the very same adversarial state. Intervening in such a personal and private matter revealed the State's attempts to sustain conflicting ideals of family-making and control of sexual activity. Marriage dissent cases further demonstrated that both sides, litigants of color and secular officials, encountered new challenges as parents wished to maintain their historical privileges; this meant taking care of their children and guiding them to good decisions that would, in turn, accrue to the benefit of the family, while couples who wanted to be wed motivated primarily by affect needed to strategize and stretch new definitions of freedom introduced by liberalism.

By focusing on judicial and extra-judicial dimensions of marriage, this dissertation has addressed the formation of black families in Argentina. The family constituted a crucial unit of economic organization and moral support. The State's attempts to control the familial architecture revealed the measures it took to ensure that colonial society remained free of social discord and resistance. Couples who chose alternative routes to the formation of their families, either by cohabiting or attempting to marry outside of their status presented a challenge to institutional power structures. A couple that married and stayed within the realms of the State's control and abided to the Church's moral authority met the ideal goal of a patriarchal society.

A second theme that was highlighted in this dissertation was the dynamics of power and cultural relations during the transition from the colonial to the national state. The field continues to view the transition from the colonial to national period as a break in time; suggesting the colonial state ended abruptly and was quickly replaced by a distinct national state. Furthermore, legacy notions persist that view independence as freeing former members of the Spanish Empire of their Iberian political and cultural legacies. Scholars further have argued that this new national state emphasized individualism which trumped the old patriarchal colonial state. Such a

teleological narrative is problematic as it loses sight of powerful behavioral legacies embedded in the republican variants of Spanish America.

The analytical framework used in this dissertation transcended the colonial and national periods and in turn allowed for a more comprehensive examination of the black experience in Córdoba. My dissertation has demonstrated that the break from a colonial regime occurred principally at the State level, while the cultural legacy of the colonial period remained strong throughout at least the first half of the nineteenth century. Acknowledging this cultural legacy further assists in the examination of the black experience. Racial hierarchies that prescribed slaves and free castas to occupy the bottom and white elites at the top in the colonial period remained fixed and pertinent in the national period. This carry over from the colonial period greatly influenced the national period, an illustration of why the late colonial and early national periods cannot be studied as mutually exclusive temporal frameworks. The post-colonial period mixed tradition and modernity that uniquely shaped the nation-building process, starting at the regional level. This approach will assist in future analysis especially for scholars interested in examining change over time.

From the mixture of both colonial legacies and the modern nation, the concept of mestizaje continued to evolve. This was the third theme of this dissertation. Mestizaje took on a politically charged and nationalistic dimension, largely been attributed to a nationalistic movement in the twentieth century. It stood in contrast to the late nineteenth century's emphasis on scientific racism and positivism that argued racially mixed societies were inherently weak. Mestizaje in the early twentieth century celebrated Latin America's racial hybridity arguing that it was a defining and positive aspect of the nation. Mixed cultural legacies from the early twentieth century have thus used mestizaje as a spiritual bond among subalterns who defined their historical existence in opposition to white elites. This dissertation, however, challenges that assignment. By analyzing Córdoba's society, it becomes apparent that mestizaje became a pertinent characteristic in the nation-building process one hundred years prior to its popularization in the twentieth century.

The ideology of *mestizaje* encapsulated the post-colonial and national periods. During the independence movement, claims of citizenship were expressed within the realms of a racially mixed population. Citizens, unlike their predecessors, subjects whose privileges were ascribed, had to earn their rights. Many black men earned their rights on the battlefield during the fight for independence and used such experiences as a device to become free. As detailed in this dissertation, that aspiration, however, was not a common occurrence in Córdoba. Instead, slaves argued their loyalty to their owner and faithful service gave them the right to be free. Their argument to be free mixed the traditional with the modern.

Faithful service to their owners was the same argument as had been used in the colonial period. Yet, instead of claiming they had the privilege to be free, slaves argued in the post-colonial period that they had earned it. This mixture of traditional and modern cultures used by slaves seeking freedom showcased an ever-growing racially mixed population within a traditional society. Their argument to be free did not upset the fragile State because slaves had proved they were loyal and dutiful. They would not cause social unrest or disturbances to a state that had just begun the difficult process of consolidation. Thus, the State acknowledged a growing free black community, but granted freedom to those who demonstrated constraint and subservience to their former owners which in turn meant they these freed people could still be controllable.

As the years passed and Córdoba entered into the national period formally after the Argentine declaration of independence, the notion of *mestizaje* was again transformed to describe people of color. *Mestizaje* acknowledged racial diversity but with limitations. As the free *casta* population continued to grow at an exponential rate, the State could no longer discriminate racially distinct groups. At the end of the eighteenth century and the beginning of the nineteenth century, a new word, *pardo*, was used to describe people of color. In a society that had a growing racially mixed population that could not be ignored, one of the ways to maintain social control was to assign people of color as *pardos* or to place into an “other” category that could easily be labeled and lumped together. Based on the 1832 census records, the majority non-white population consisted of “*pardos*,” which described all people of color: blacks, Indians, mestizos,

zambos, and mulatos. Moreover, the censuses from 1813 to 1832 revealed that the State racially re-labeled blacks as pardos. In making this conversion, the State recognized the population's diversity but still constructed mechanisms designed to maintain traditional racial hierarchies.

Today in Argentina, the legacy of the word pardo is "morocho." Often used to describe a dark-skinned person, it still serves the purpose of categorizing people in Argentina as "other," a darker contrast to the white population. Nonetheless, recently Afro-Argentines have created movements to be recognized for their black ancestry and as a racially distinct group that was originally brought to the Río de la Plata as slaves. The most recent acknowledgement of their efforts was the inclusion of a racial category on the 2010 census for the first time in nearly a century.

Their sought-after recognition addresses a larger issue of Afro-Argentine history in a country known to be a Europeanized nation. African descendants have been largely considered to be non-existent and something of the past. Their non-existence promotes the idea that they have "disappeared." This notion of their disappearance has been popularized and perpetuated by State officials who have continued to make the claim that there are no blacks in Argentina. In the 1880s, President, Domingo Faustino Sarmiento noted that "in order to see a black person, you would have to go to Brazil." One-hundred years later in the 1990s, President Carlos Menem, argued that "there are no blacks in Argentina that is a Brazilian problem."<sup>1</sup> Such announcements promote and perpetuate the notion that Argentina has always been a white nation void racial diversity and for that reason is a very unique country in Latin America. Argentina's popularized whitened version of its history has rendered its black past to be just that, a thing of the past.

In response, historians have taken up the task of questioning what happened to the black population?, and more specifically, where did they go? In particular, historians addressed various myths of disappearance such as the use of black men as cannon fodder during the wars of

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1. Jorge Fortes, and Diego Ceballos, "Afroargentines" (New York, NY: Latin American Video Archives, 2002).

independence from 1810-1816, the ensuing civil wars from 1816-1861, along with the War of the Triple Alliance (1865-70) which indeed killed many black men, or the effects of yellow fever outbreaks that killed black men and women as they did not have the means to move to other parts of the city that were less affected by the outbreaks. Historians such as Reid Andrews have specifically addressed these myths revealing they are not true.<sup>2</sup> Instead of disappearing, Argentine black history had been forgotten because of the persistent measures put forth of the State by the late nineteenth century which consistently argued it was a white modern nation. Some of these examples included the southern expeditions of 1868-70, led by General Julio Roca, in which the State sanctioned the mass killing of indigenous peoples in the name of progress. Blacks had one option: to accommodate to the new conditions of the nineteenth century by leaving behind their cultural heritage and largely subscribing to the whitened nation. This narrative has largely described the fate of blacks in Argentina. It has rendered them victims of a system that appeared to be determined to get rid them. This viewpoint allowed the continuation of the popular myth that Argentina is a white nation.

My dissertation has attempted to ask different questions: who were Afro-Argentines?, and what were black experiences outside of Buenos Aires? The first question deals largely with the subject of identity. Identity is based on two dimensions: how the State labeled Afro-descendants, and how blacks self-identified. The State viewed blacks in two categories: as a labor source since such a large proportion consisted of slaves, and as freed individuals, a population that continuously grew over my course of study 1776-1853. Slaves had a certain amount of protection under the State as they were still human and for that reason were guaranteed levels of protection under the law. Freed people of color, however, were seen as a potential threat submission and to social peace. As free individuals, they did not have to account for their whereabouts, a threatening condition to a patriarchal state that was determined to control its society. Criminal cases presented in this study pointed to sexual deviances committed by people

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2. Andrews, *The Afro-Argentines*.

of color who choose to disobey the sexual norms. Mention of freed blacks' disregard for the law revealed the State's preoccupation with this segment of society.

By contrast, African descendants saw themselves, initially, as subjects of the Crown, and after 1810, as citizens of a nation; they were thus either granted privileges or earned rights. Their sense of privilege was based on a patriarchal state that was influenced by the Church which had argued that slaves were more than just labor, that their souls made them equal in the eyes of God and thus they were guaranteed humane treatment and the system of protections that characterized Ibero-American slavery. They were entitled to certain types of treatment by their owners, which included basic necessities and the ability to live with their spouses. With independence, a new notion of citizen changed slaves and freed people's self-perception. Instead of legal arguments based on privilege, they now claimed rights. These rights were based on their actions, such as how they had served their owners. This dissertation argues that slaves, after generations of faithful service, argued they had earned the right to be free.

Sometimes, the state assigned identities in ways that African descendants saw as hostile to their interests. When identities caused conflicts that could no longer be settled by implicit understandings of the law such as the *barrio's* negotiations, they were settled at court. Multi-centric levels of legality converged in the court and created a unique milieu of social interactions among blacks who were slaves or free and those who were considered to be their adversaries, such as their owners, agents of the State, or even families. The court served as a contact point where identities were negotiated. From such negotiations, compromises emerged that ultimately formed allowed for blacks to win their cases. The State would often side with slaves seeking their freedom in both the colonial and national periods. The State's treatment in cases involving interracial couples, however, evolved over time. In any event, this dissertation has demonstrated that blacks in Argentina were actively involved determining their own lives.

Examining the experiences of blacks in Córdoba answers the second question of my dissertation, what were black experiences outside of Buenos Aires? The choice to make Córdoba the focal point of study was based on an attempt to expand the geographical study of black

history in Argentina and connect it to the larger Diasporic experiences. Buenos Aires remains as the central location of black historical studies in Argentina. This is because Buenos Aires's history has been identified as the national history of Argentina, skewing the historical narrative. Thus, my dissertation opens up the discussion of black experiences in Argentina on a larger scale and allows for regional and geographical comparisons.

Some regional black experiences were similar, in particular the ability to appeal to the State. But my final chapter demonstrated that the whitening effects spurred on by the homogenization that occurred in Buenos Aires, which have helped in explaining the disappearance of the black population in Argentina, does not fit Córdoba. Instead, we find a different situation: the mixed population in Córdoba had reached such high levels that the State could not ignore its population, while at the same time it had to maintain a racial hierarchy. In order to do so, it promoted *mestizaje*, an ideology that acknowledged racial diversity within a hierarchy. We can begin to demonstrate how it was that the Afro-Argentine experience was not monolithic, but instead, regionally contingent. Indeed, stark contrasts within the Río de la Plata, speak to the larger understanding of the African Diaspora in the Americas.

My dissertation began with discussion of African Diasporic theory and concluded that Córdoba fits the creole/survivalist model. It recognized that the black experience in Córdoba does not have cultural artifacts such as black newspapers or evidence of mutual aid societies. For those reasons, the black experience seen throughout the late colonial and early national periods focused primarily on state generated documents such as census records, notaries, and court cases. The African experience in Córdoba was defined by the attempts to adapt and accommodate to their environment. The principal mechanism that blacks used in the late colonial and early national period was the legal system. Their ability to go to court and seek justice connects Afro-cordobés's experiences to the larger Diaspora.

A common reason for slaves to go before the court was to seek manumission. Similar to slaves in Córdoba, slaves in disparate locations such as Rio de Janeiro and Baltimore also sought

their freedom through the legal system from the late 18th century to the mid-nineteenth century.<sup>3</sup> In this regard, the legal system independent of its characteristics, Roman or Common Law, connected blacks in the Diaspora. Another commonality that connected their shared legal experiences was the milieu of demographic and structural complexities in which slaves were able to have access to the judicial system: Rio de Janeiro, Baltimore, and Córdoba were urban centers. Cities connected slaves to the legal system as they learned where to seek the correct mechanisms to appeal to the court. Slaves also had more possibilities to seek the information that was needed to be successful at court. In Latin America, this equated to finding good representation.

The measures taken by slaves in distinct geographical locations demonstrate how the Diasporic experience is shared. There is no coincidence that blacks throughout the Atlantic world sought freedom via the legal system. Common experiences such as time frame which encapsulated the Age of Revolution, the emergence of liberalism, and living in urban centers allowed for slaves to conjure ideas of freedom in which they went before the court to make it a reality. These Diasporic experiences further addresses why it is important to continue to extend the investigative boundaries of slave historiography in the Río de la Plata. Still very much neglected in the overall historiography of slavery in Latin America, this dissertation has revealed that black experiences in Córdoba were not an anomaly or unique to the Diaspora but rather a part of it. Through comparisons with other areas in the Diaspora, a more complex and nuanced interpretation will result and ultimately put the color back into Argentina's whitened past.

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3. Grinberg, "Freedom Suits."



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