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Shades of Liberalism: Lawyers and Social, Political and Legal Transformations in Nineteenth Century Cuba

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FLORIDA INTERNATIONAL UNIVERSITY

Miami, Florida

SHADES OF LIBERALISM: LAWYERS AND SOCIAL, POLITICAL AND
LEGAL TRANSFORMATIONS IN NINETEENTH CENTURY CUBA

A dissertation submitted in partial fulfillment of the

requirements for the degree of

DOCTOR OF PHILOSOPHY

in

HISTORY

by

Ricardo Pelegrín Taboada

2018

To: Dean John F. Stack, Jr.
School of International & Public Affairs

This dissertation, written by Ricardo Pelegrín Taboada, and entitled *Shades of Liberalism: Lawyers and Social, Political and Legal Transformations in Nineteenth Century Cuba*, 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.

Bianca Premo

Aurora Morcillo

Matthew Mirow

Rogelio Pérez Perdomo

Victor Uribe, Major Professor

Date of Defense: November 9, 2018

The dissertation of Ricardo Pelegrín Taboada is approved.

Dean John F. Stack, Jr.
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Andrés G. Gil
Vice President for Research and Economic
Development and Dean of the
University Graduate School

Florida International University, 2018

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DEDICATION

To my mother, for her loving care and inspiration

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ABSTRACT OF THE DISSERTATION
SHADES OF LIBERALISM: LAWYERS AND SOCIAL, POLITICAL AND LEGAL
TRANSFORMATIONS IN NINETEENTH CENTURY CUBA

by

Ricardo Pelegrín Taboada

Florida International University, 2018

Miami, Florida

Professor Victor Uribe, Major Professor

In 1819, Ferdinand VII ordered the creation of two Colegios de Abogados in Cuba to prevent the expansion of the number of legal professionals, as well as the unauthorized practice of law. The strategy, however, failed, and lawyers increasingly became a force of political and social change in the island, being mostly inspired by the debates about the implementation of liberal agendas in and out of Cuba. Some Colegios de Abogados eventually became centers of anti-Spanish conspiracy and lawyers even led recurrent uprisings for Cuban independence. Ideas of reform among Cuban lawyers, however, were diverse, and different interpretations of liberalism surfaced, especially under the influence of other movements such as annexationism and autonomism. This variety of ideas encountered one another at the Constitutional Convention of 1901, where self-proclaimed liberal delegates still questioned, for example, free education and universal suffrage, which made evident the many shades that liberalism still had in Cuba at this time.

This study takes legal professionals to be a strategic window to approach and explain key social, political and intellectual transformations in nineteenth century Cuba, while unveiling the leading role lawyers themselves played in those processes. Relying on

personal and professional documentation, correspondence and job applications, the dissertation recreates lawyers' political, intellectual and social positions, and shows how they had a decisive participation in historical change in late colonial Cuba. Their ideas survived in periodical publications, newspapers, and political writings that they established or where they participated, as well as in legislation that they enacted, applied or commented on. Being the most influential professional group of the period under study, lawyers represent a perfect tool to understand the end of Spanish times in Cuba and its transit, under the flags of liberalism, to an independent republic.

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ABBREVIATIONS

AGI	Archivo General de Indias (SPAIN)
AGN	Archivo General de la Nación (MEXICO)
AHN	Archivo Histórico Nacional (SPAIN)
AHUH	Archivo Histórico de la Universidad de la Habana (CUBA)
ANC	Archivo Nacional de Cuba (CUBA)
BNC	Biblioteca Nacional de Cuba (CUBA)
BNM	Biblioteca Nacional de Madrid (SPAIN)

I. INTRODUCTION

On November 5th, 1900 a constituent assembly gathered in Havana's José Martí Theater to draft independent Cuba's first national constitution. In spite of their diverse political views, the delegates proclaimed their liberal spirit and their intention to create a new republic. One of the representatives from Santa Clara, the journalist José Braulio Alemán, declared: "this convention is nothing more than a continuance of the ideal of the revolution."¹ With these words, Alemán portrayed the constitutional project as part of a larger and more complex movement, a process that could find its basis on the ideals of reform present on the island since the early nineteenth century and evolving through generations, as Cuban liberalism itself. Besides being a journalist, Alemán had studied law at the University of Havana. His intervention thus provided another example of the central role that lawyers, and other legally trained individuals, had played during the last one hundred years of political change on the island.

Based on the transformations the legal profession experienced during the nineteenth century and the key role of lawyers in support of or opposition to the liberal agenda, this study examines the origins and evolution of liberalism in Cuba through that period. Since the early nineteenth century, Cuba, as part of the Spanish Empire, witnessed increasing movements for social, political and economic reform that proposed, for example, the abolition of slavery and the authorization of self-government on the island. Increasingly, those proposals found support among creoles that, at the same time, gradually acquired control of the public space by the management of newspapers and the occupation of official

¹ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, Sesión Inaugural, November 5th, 1900, 3.

positions. This was particularly the case of those who had acquired legal training. The ideas of reform, however, were not uniform and various groups split into progressive, moderate, and even conservative factions that, interestingly enough, supported some liberal principles. Lawyers emerged as leaders of the different factions, while the community of legal professionals itself embodied the social, political, cultural, legal, and economic transformations that the island experienced through the nineteenth century.

Historiographical considerations

Contemporary historiography has paid increasing attention to the history of lawyers. The unique position of lawyers as professionals in charge of enacting, interpreting, and applying the law makes them key players in many of the social, political, legal, intellectual and economic transformations taking place throughout history everywhere. Thus, scholars from the five continents have examined, from an historical as well as sociological, these legal professionals to decipher significant processes of change. The studies are not limited to individual lawyers. They also analyze the professional group as whole, taking the form of collective biographies. These studies, individual and collective alike, are essential to illustrate and understand, in particular, “modern” times, a period founded on the rule of law and the separation of powers. The participation of lawyers in governance during this era has been more active than was the case in ancient, medieval or early modern societies. Through works on modern lawyers, traditional political history acquires a new sense of focus on social dimensions and reveals the background and activities of key socio-political players previously unknown.

During recent decades, scholars have pursued research on lawyers across the world. For instance, in Africa, dozens of articles review the role of lawyers on that continent, and

show how they facilitated the preservation of peace and the recognition of rights in countries such as Kenya and Senegal, among others.² Similar studies have documented lawyers' activism in legal transformations in Eastern Asia, and their social impact in, for example, China and Korea.³ Recent investigations also include the Muslim world where scholars have unveiled the participation of lawyers in the political life of various countries and identified the central position of legal professionals in, for instance, Iraq and Pakistan.⁴ Along the same lines of this dissertation, Darryl Flaherty published in 2013 an account on Japanese lawyers in which he explained how these legal professionals actively influenced the political, social and economic reforms in that country during the nineteenth century.⁵

North America has not escaped the collective or individual study of its legal professionals and their impact on political and social transformations. As early as 1897, a study addressed the social and political involvement of legal professionals.⁶ Through the twentieth century other scholars continued revising the role of lawyers in American society,

² Stanley Ross, *The Rule of Law and Lawyers in Kenya*, *The Journal of Modern African Studies*, Vol. 30, No. 3 (Sep. 1992), pp. 421 – 442; and Judy Scales-Trent, *Women's Lawyers, Women's Rights in Senegal: the Association of Senegalese Women Lawyer*, *Human's Right Quarterly*, Vol. 32, No. 1 (Feb, 2010), pp. 115 – 143.

³ Sida Liu, *Lawyers, State Officials and Significant Others: Symbiotic Exchange in the Chinese Legal Services Market*, *the China Quarterly*, No. 206 (June 2011), pp. 276 – 293; and Linda S. Lewis, *Legal Counsel in Korea: Lawyers, Saböpsösa, and the Realization of Justice*, *Korean Studies*, Vol. 13 (1898), pp. 113 – 129.

⁴ Duncan French, *Iraq and Climate Change: the Mainstream Lawyer's Survival Guide*, *The International Lawyer*, Vol. 44, No. 3 (Fall, 2010), pp. 1019 – 1033; and Shoaib A. Ghias, *Miscarriage of Chief Justice: Judicial Power and the Legal Complex in Pakistan under Musharraf*, *Law and Social Inquiry*, Vol. 35, No. 4 (Fall 2010), pp. 985 – 1022.

⁵ Darryl E. Flaherty, *Public Law, Private Practice, Politics, Profits and the Legal Profession in Nineteenth Century Japan*, Harvard University Asia Center, 2013.

⁶ Joseph Warner, *The Responsibilities of the Lawyer*, *International Journal of Ethics*, Vol. 7, No. 2 (Jan. 1897), pp. 204 – 226.

mostly through publications of the American Bar Association.⁷ Other works, by contrast, revised the role lawyers played during colonial and revolutionary times, such as in the independences of Massachusetts, New York, and North Carolina, respectively.⁸ As recently as 2014, one can find articles exploring the role of American lawyers in the revolutionary era, proving the interest of the topic in American scholarship.⁹ There have been also publications about the social and political influence of Canadian lawyers, as well as their professional organizations.¹⁰

The influence of lawyers has also been documented in countries such as Great Britain, France, Italy, Germany and Spain. These studies, either in the form of monographs or selected articles, address medieval times to the present. There are studies focused specifically on the legal profession, its beginning, and evolution.¹¹ Other monographs on European lawyers have focused, for instance, on the role of the Catholic Church and its lawyers, and their extensive influence across all the European kingdoms during the middle

⁷ See for example, Newton D. Baker, *The Lawyers' Function in Modern Societies*, American Bar Association Journal, Vol. 19, No. 5, (May 1933), pp. 261 – 264; and Warren E. Burger, *The Role of Lawyers in Modern Society*, Brigham Young University Studies, Vol. 16, No. 4 (Summer 1976), pp. 501 – 505.

⁸ Charles Robert McKirdy, *The Lawyers of Massachusetts and the American Revolution*, The American Journal of Legal History, Vol. 16, No. 3 (Jul. 1972), pp. 205 – 214; Milton M. Klein, *New York Lawyers and the Coming of the American Revolution*, New York State Historical Association, Vol. 55, No. 4 (October 1874), pp. 383 – 407; and James P. Whittenburg, *Planters, Merchants and Lawyers: Social Change and the Origin of the North Carolina Revolution*, the William and Mary Quarterly, Vol. 34, No. 2 (Apr. 1977), pp. 215 – 238.

⁹ Luke J. Feder, *No Lawyer in the Assembly! Character Politics and the Election of 1768 in New York City*, New York State Historical Association, Vol. 95, No. 2 (Spring 2014), pp. 154 – 171.

¹⁰ Carol Wilton, *Inside the Law: Canadian Law Firms in Historical Perspective*, University of Toronto Press, 1996; and Christopher Moore, *The Law Society in Upper Canada and Ontario's Lawyers, 1797 – 1900*, University of Toronto Press, 1997.

¹¹ James A. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians and Courts*, the University of Chicago Press, 2008.

ages.¹² Some published compilations focus on the political influence of lawyers and during the Renaissance and even establish connections between historical transformations promoted by lawyers in Europe and the North American colonies in early modern times.¹³ Contemporary studies on European lawyers explore their role during more recent historical processes, for example, the Nazi fascism of the 1930s and 1940s, and in the aftermath of World War II.¹⁴

Studies about lawyers and their impact as professional groups in the social and political development of Spain are worth a pause. In 1981, Richard Kagan analyzed the increasing litigiousness experienced by early modern Castilians, proving the growing social need for lawyers or those in charge of providing legal services.¹⁵ In 2004, Carlos Tormo Camallonga reconstructed the history of the *Colegio de Abogados* of Valencia and its contradictions with the Ancien Regime.¹⁶ More recently, in 2009, Stephen Jacobson proved the social and political impact of lawyers in Barcelona between 1759 and 1900.¹⁷ There are even general anthologies on the influence of the legal profession all over Iberia

¹² James Muldoon, *Popes, Lawyers, and Infidels*, University of Pennsylvania Press, 1979.

¹³ Lawrin Armstrong and Julius Kirshner, *The Politics of Law in Late Medieval and Renaissance Italy*, University of Toronto Press, 2011; and Wilfrid Prest, *Lawyers in Early Modern Europe and America*, Holmes and Meyers Publisher, New York, 1981.

¹⁴ Alan E. Steinweis and Robert D Rachlin (editors), *The Law in Nazi Germany*, Berghahn Books, 2013.

¹⁵ Kagan, Richard L., *Lawsuits and Litigants in Castile, 1500-1700*, Chapel Hill: University of North Carolina Press, 1981.

¹⁶ Carlos Tormo Camallonga, *El Colegio de Abogados de Valencia: entre el Antiguo Regimen y el liberalism*, Universidad de Valencia, 2004.

¹⁷ Stephen Jacobsen, *Catalonia's Advocates: Lawyers, Society, and Politics in Barcelona: 1759 – 1900*, the University of North Carolina Press, 2009.

in various historical periods.¹⁸ These cases show that Cuba was not the only territory of the Spanish Empire where lawyers led social and political reforms. However, there is a difference between research of this kind concerning the island and that addressing other Spanish American domains.

Scholars have also explained the history of lawyers in Latin America. In 1999, for example, Victor Uribe analyzed comparatively restrictions on the number of lawyers in various Spanish colonies in America and measured it against benchmarks in France, England and the United States.¹⁹ In 2000, at the same time that he discussed the alleged scarcity of lawyers, he offered a detailed examination of the legal professionals of New Granada in their historical context focusing on their participation as a group in the social, intellectual and political transformations that took place in Colombia in the transit from colony to republic.²⁰ Other authors such as Alejandro Mayagoitia and Renzo Honores also published research on legal professionals in early colonial Mexico and Peru, respectively.²¹ The development of this new history concerning the legal profession has also resulted in the publication of compilations including comparative works on the legal profession in

¹⁸ Santiago Muñóz Machado ed., *Historia de la abogacía española* (Cizur Menor, Navarra: Editorial Arazandi, 2015).

¹⁹ Victor Uribe, “Colonial Lawyers, Republican Lawyers and the Administration of Justice in Spanish America,” in Eduardo Zimerman, ed., *Judicial Institutions in Nineteenth-Century Latin America* (London: Institute of Latin American Studies, University of London, 1999), p. 25-48.

²⁰ Uribe, Victor, *Honorable Lives: Lawyers, Family, and Politics in Colombia, 1780–1850*, University of Pittsburgh Press, 1st edition, Pittsburgh, 2000.

²¹ Mayagoitia, Alejandro, *El ingreso al Ilustre y Real Colegio de Abogados de México: historia, derecho y genealogía*, Facultad de Derecho de la Universidad Panamericana, Mexico, 1999; and Mayagoitia, Alejandro, *Las listas impresas de miembros del Ilustre y Nacional Colegio de Abogados de México (1824 – 1858)*, Facultad de Derecho de la Universidad Panamericana, Mexico, 2002 – 2004.

Mexico and the Andean region.²² In 2004, Matthew C. Mirow examined the history of the practice of law in South and Central America.²³ In 2006, Rogelio Pérez Perdomo published a synthesis on the historical significance of lawyers in Latin America that, incidentally, includes valuable data on Cuban legal professionals.²⁴

Unlike works on other Latin American countries, the Cuban historiography has remained mostly silent about the origins and development of its legal community or about the social and political backgrounds of legal professionals on the island. Such analysis might be less relevant to other professions with lesser impact on the social and political history of the island. Lawyers, by contrast, had an increasingly leading role in Cuba's public and private spheres and deserve, therefore, more and deeper attention by historians. Yet, the political situation of Cuba during the last decades has not favored studies on groups traditionally classified as elitist, such as lawyers. It has rather focused on the history of workers and other social and professional groups. Perhaps the major exception to lack of attention to elite sectors of society is the 2003 work by Carlos del Toro focusing on "The Cuban High Bourgeoisie," a work that rapidly went out of print.²⁵

²² Aguirre Salvador, Rodolfo (coordinator). *Carrera, linaje y patronazgo: clérigos y juristas en Nueva España, Chile y Perú, siglos XVI-XVIII*, Centro de Estudios sobre la Universidad, Universidad Nacional Autónoma de México. Plaza y Valdés, México, D.F. 2004. This book is a compilation of articles including: *Los abogados de Lima colonial (1550 – 1650): formación, vinculaciones y carrera profesional* by Teodoro Hampe Martínez and Renzo Honores, "Si saben ustedes de los méritos": *Escritura, carreras de abogados y redes personales en Nueva España (1590 – 1700)* Marcelo da Rocha Wanderley, *Universitarios Mexicanos y encomiendas (1597)* by Armando Pavón Romero and *Los Rectores del Ilustre y Real Colegio de Abogados de México: la primera generación (1760 – 1783)* by Alejandro Mayagoitia.

²³ Matthew C. Mirow, *Latin American Law: A History of Private Law and Institutions in Spanish America*, University of Texas Press, Austin, 2004.

²⁴ Rogelio Pérez Perdomo, *Latin American Lawyers: A historical introduction*, Stanford University Press, 2006.

²⁵ Carlos del Toro, *La Alta Burguesía Cubana: 1920 – 1958*, Editorial de Ciencias Sociales, 2003.

In most available works up until the mid-twentieth century, authors included legal professionals in larger compilations of short biographies. In these works, the common element was not the profession as such but the intervention of some individual lawyers in significant political or social events. Those are the cases of “Cubans of today” (1919) by William Belmont Parker, “Cuba and the Cubans” (1896) by Raimundo Cabrera, or “Cuba and its History” (1965) by Emeterio Santovenia.²⁶ The presence of several lawyers in these compilations, however, confirms the significant role that the members of the profession had in Cuban history while raising questions about its members as a social group.

After the establishment of the revolutionary government in 1959, its leaders questioned the necessity of lawyers within the emerging socialist society and took actions to weaken their development as a professional group as well as to limit their impact in Cuban society. Consequently, the Schools of Law reduced its curriculum to four years and removed courses from the plan of studies, a move that Fernández Bulté described as “legal nihilism.”²⁷ These official policies made the social perception regarding legal professionals somewhat negative. It may have contributed to the fact that no historical publications or research about lawyers were considered relevant, unless they happened to be about lawyers who were at the same time military heroes of the wars of independence, or popular leaders

²⁶ William Belmont Parker, *Cubans of Today: Hispanic Notes and Monographs*, Hispanic Society of America, Vol. I, G.P. Putnam’s Sons, New York and London, 1919; Emeterio Santovenia and Raul M. Shelton, *Cuba y su historia*, Rema Press, Miami, 1965; and Raimundo Cabrera, *Cuba and the Cubans*, the Levytype Company, Philadelphia, 1896.

²⁷ Fernández Bulte, Julio, *Historia del Estado y del Derecho en Cuba*, Editorial Felix Varela, La Habana, Cuba, 2006, 320. This book is the first account on Cuban legal history that covers beyond the decade of 1970 with some critical analysis. Fernández’s argument that existed judicial and legal nihilist among Cuban leaders and society was considered revolutionary when this book was written in 2004. However, a gap in the legal history forced his publication in 2006 becoming a necessity for the teaching of the course of Cuban Legal and Political History after more than 25 years with the unchanged and unedited book published by Julio Carreras in 1981.

of the twentieth century, such as Julio Antonio Mella.²⁸ Legal education, including the study of legal history, also fell in disregard.

Legal training on the island weakened over time. In the context of predominantly socialist ideology after the Cuban revolution, the studies of law considerably narrowed down the curriculum. In fact, the program almost disappeared totally from the University of Havana. Yet, the School of Law continued in operations and, after sixty years, it still offers courses that describe world and Cuban legal history with minor changes to contents. Those programs preserve a positivist approach and focus on legal institutions and regulations lacking any social information about the members of the profession. Additionally, and as a reflection of the Marxist philosophy supporting those courses, lawyers are encapsulated as part of the bourgeoisie and demonized. Attention to the social transformations that were taking place in the profession or the larger society, with active involvement of lawyers, is missing.²⁹

Julio Carreras published in 1981 the first survey on Cuban legal history.³⁰ This book offers a political and institutional legal history since the arrival of the Europeans in 1492 to the early years after the triumph of the revolution in 1959. This text became the main guide for the study of Cuban legal history for almost three decades, and it does not

²⁸ See Tirso Clemente Díaz, *Ignacio Agramonte, estudiante y jurista*, Universidad de la Habana, 1975; Erasmo Dumpierre, *Julio Antonio Mella: biografía*, Comisión Nacional de Historia, Secretaría de Trabajo Ideológico, 1975; and Julio Carreras Collado, *Céspedes*, Editora Política, Havana, 2003.

²⁹ The official historiography remarks the participation of military leaders, politicians, workers and students in the building of the new Cuban society while excluding the bourgeoisie and their lifestyle. Legal practice was associated with “the past” and post –revolutionary historians such as Hortensia Pichardo, Julio Le-Riverende and Fernando Portuondo recreated this ideology in their own history books. They were in accord with the directives of the Communist Party and became the main sources for the study of Cuban history for the following four decades.

³⁰ Carreras Collado, Julio, *Historia del Estado y del Derecho en Cuba (History of the State and the Law in Cuba)*, Editorial Pueblo y Educación, La Habana, Cuba, 1981.

include analysis of the legal professionals, which may have contributed to the silence regarding the topic in both subsequent historiography and in legal education itself. This work, however, set the basis for a comprehensive study of Cuban constitutional and legal history in a chronological manner. In 2006, legal scholar Julio Fernández Bulté revised Carrera's book. The work was not completely original since it replicated most of the contents and structure of Carreras's book. Yet, Fernández Bulté included two chapters for the revolutionary period where he addresses the reform to the plan of studies in 1960 and its impact in the generally nihilist perception of the law. In spite of his incorporation of the new contents, Fernández Bulté omitted any references to legal professionals as well.³¹

During the last decade, isolated case studies of individual lawyers have appeared in compilations of articles about legal topics.³² This was the case of interviews that a group of Cuban researches pursued among Cuban intellectuals, including members of the faculty of the School of Law of the University of Havana in 2006. Other recently published compilations of articles have included references to nineteenth and early-twentieth century lawyers, such as biographical information of Ricardo Dolz and Eliseo Giberga, examining some aspects of the professional life of these jurists.³³ These articles, however, do not attempt a systematic analysis of the profession, or a study of the lawyers as a group, and

³¹ Fernández Bulté, Julio, *Historia del Estado y del Derecho en Cuba (History of the State and the Law in Cuba)*, Editorial Felix Varela, La Habana, Cuba, 2006.

³² Studies on this topic merely referred to Cuban lawyers or academics that have been involved in the practice or teaching of the law, respectively. For example, Rosete Silva, Hilario and J.C. Guancho, *El hombre en la cornisa (The man on the ledge)*, Casa Editora Abril, Habana, Cuba, 2006. It consists in a compilation of interviews to Cuban intellectuals including some lawyers, and members of the Faculty of the School of Law in the University of Havana.

³³ Andry Matilla Correa (coord.), *El Derecho como saber cultural – Homenaje al Dr. Delio Carreras Cuevas*, Editorial Ciencias Sociales, Havana, 2011. See on page 219 “Eliseo Giberga y el primer tiempo del Consejo de Estado en Cuba,” and on page 264 “El legado de Ricardo Dolz al derecho procesal cubano.”

rather embrace the casuistic study of individual lawyers. The study of a topic closely related to the ideology and activities of lawyers in nineteenth century Cuba, liberalism, presents a more complex situation.

Liberalism triggered the increase of the number of lawyers during the early nineteenth century. Spain's Absolute Monarchy, like many others in Europe and elsewhere, revolved around the person of the King. There were no "citizens" in it, but vassals to the Crown, which was the incarnation of the state. The king was the head of the government and the judicial system. Although *fueros* and Cortes existed in Spain, the King was the central figure of the political scheme. Starting around the late eighteenth century, new voices proposed the transformation of this *status quo* into a political model where the individuals, not the King, would be the center of the state. This new government was to be constituted by various separated branches with powers limited by the law as the supreme ruler of both society and the state. In this scenario, law, as well as those in charge of designing, interpreting and applying it, would acquire a new dimension, and lawyers, therefore, become increasingly important. During the first decades of the nineteenth century, liberalism spread through Latin America proposing the implementation of changes such as secularization, the abolition of slavery, open market, and the defense of different kinds of freedoms, including press, speech, association, and religion, among others.³⁴ This process was not uniform, and multiple interpretations and variations applied, being Cuba

³⁴ For the study of liberalism in Spain and Spanish America see Roberto Breña, *El primer liberalismo español y los procesos de emancipación de América, 1808 – 1824: una revisión historiográfica del liberalismo hispánico*, El Colegio de Mexico, 2006; and for the analysis of liberalism in the conformation of the Latin American identity see Howard J. Wiarda, *The Soul of Latin America: the Cultural and Political Tradition*, Yale University Press, New Haven and London, 2001.

and its lawyers an example of how these transformations began surfacing with the turn of the nineteenth century.

Two compilations of articles edited by Terence Halliday and Lucien Karpik, including Malcolm Feeley in the most recent of them, have documented the unique contribution of lawyers to the spread of liberalism globally. They published the first of these works titled *Lawyers and the Rise of Western Political Liberalism* in 1997. In this volume, scholars demonstrate the collective action of lawyers and their influence in the emergence and development of liberalism in the Western Hemisphere.³⁵ The same authors put out a new compilation in 2007: *Fighting for Political Freedom: Comparative Studies of the Legal Complex and Political Liberals*. This work comprised articles from various continents, including South America, proving the active agency of lawyers in the construction and implementation of liberal policies.³⁶

The origins of liberalism and its various agendas have been studied by the historiography on Latin America. Some authors consider that liberalism started in Spain as an anti-monarchic expression being later adopted by the colonies as an expression of anti-colonialism, which is the case of Roberto Breña. In *El Primer Liberalismo Español y los Procesos de Emancipación de América (1808 – 1824): una revisión historiográfica del liberalismo hispánico*, Breña analyzes the relations between early Spanish liberalism and the Spanish American independences. He argues that Spanish American independences received a high influence of the Spanish liberalism, but different circumstances determined

³⁵ Terence Halliday and Lucien Karpik, *Lawyers and the Rise of Western Political Liberalism*, Clarendon Press, 1997.

³⁶ Terence Halliday, Lucien Karpik, and Malcolm Feeley, *Fighting for Political Freedom: Comparative Studies of the Legal Complex and Political Liberals*, Bloomsbury Publishing, 2007.

the manifestation of the same political movement in a different way in the colonies than in the Iberian Peninsula.³⁷ Other authors identify the emergence of a liberal thinking in Rio la Plata since the eighteenth century. Tulio Halperin Dongui, for example, published *Revolución y Guerra: formación de una élite dirigente en la Argentina criolla*, in 1972. This book analyzes the origin of an autonomous center of political power controlled by local elites in Rio la Plata since the late eighteenth century, which Halperin Dongui considers an early form of liberalism.³⁸

Historiography on Latin American liberalism have also focused on its political agenda, and the contradictions derived from its application. François-Xavier Guerra, for instance, published in 2009 a compilation of articles titled *Modernidad e Independencia* that examines the origins of Latin America separatist movements at the end of the eighteenth century, and the implementation of the first political, legal, social and economic reforms during the first decades of the nineteenth century.³⁹ Another example, Fernando Lopez – Alves, examined Uruguay, Argentina, Paraguay, Colombia and Venezuela to explain how different circumstances caused the establishment of diverse forms of governments in *State Formation in Latin America, 1810 – 1900*, published by in 2000.⁴⁰

³⁷ Tamar Herzog, *Review of El Primer Liberalismo Español y los Procesos de Emancipación de América (1808 – 1824): una revision historiográfica del liberalismo hispánico*, (American Historical Review, Vol. 113, No. 3, 2008), 793.

³⁸ Tulio Halperin Donghi, *Revolución y Guerra, formación de una élite dirigente en la Argentina criolla* (Siglo Veintiuno Editores, 1972),

³⁹ François-Xavier Guerra, *Modernidad e Independencia: Ensayo sobre las Revoluciones Hispánicas*, Fundación Studium y Ediciones Encuentro, S.A. Madrid, 2009.

⁴⁰ Fernando Lopez-Alves, *State Formation and Democracy in Latin America, 1810 – 1900*, Duke University Press, Durham, 2000.

In this account, Lopez – Alves proves the existence militarism and corporatism in nineteenth century Latin America, as deviations of the liberal tenet of popular participation.

Some authors have focused on the struggles and limitations experienced during the implementation of the liberal agenda in specific countries. One of the first accounts covering this issue was *Mexican liberalism in the Age of Mora, 1821 – 1853*, published by Charles Hale in 1968.⁴¹ In this study, Hale focuses on the political conflicts after the independence, and the gradual imposition of liberals, represented by Mora, over conservatives, led by Lucas Alamán. Hale also reconstructs the liberal political thinking, providing a theoretical framework for liberalism in the Chapter *The Structure of Political Liberalism*.⁴² In 1991, Donald Stevens also explored the obstacles in the implementation of liberal political transformations in *Origins of Instability in Early Republican Mexico*. In this book, Stevens focuses on Mexican political history to explain the political tensions existing in Mexico during the first decades following independence that caused Mexico to transit from a prosperous and stable colony to a weak and unstable independent nation.⁴³ He pays special attention to events that influenced political decisions such as the existence of local caudillos, economic and fiscal fluctuations, and the correlation between ideology, social positions, familiar networks and ethnic origins.⁴⁴ Barbara Tenenbaum has also explored the issue of financial stability in *Politics of Penury: Debts and Taxes in Mexico*,

⁴¹ Charles Hale, *Mexican Liberalism in the Age of Mora, 1821 – 1853*, Yale University Press, 1968.

⁴² Hale, *Mexican Liberalism in the Age of Mora*, 7.

⁴³ Donald Stevens, *Origins of Instability in early republican Mexico* (Duke University Press, 1991), 1.

⁴⁴ Stevens, 7.

1821 – 1856, published in 1986.⁴⁵ Tenenbaum focuses on the public debt crisis and the financial situation as an obstacle in the state building process of the early Mexican Republic.⁴⁶ Historiography has also covered the implementation of federalism in Mexico, and the obstacles faced by liberals in this project with, for example, Timothy Anna's *Forging Mexico*, published in 1998. In this account, Anna explains Mexico's transition from colonial subservience to nationhood, while the country became a federal republic as a solution to internal and local conflicts, especially when large territories were dominated by local caudillos.⁴⁷ In 1989, Charles Hale published a continuation to his previous work, *The Transformations of Liberalism in Late Nineteenth Century Mexico*. In eight chapters, Hale covers from 1867, with the Mexican *Reforma*, until 1910, with the end of the *Porfiriato*, exploring the transformation of classic liberalism into an organic doctrine by the scientific politics, resulting in the adoption of positivism by Porfirio Diaz with an impact on Mexican legislation, education and media. Although a critic of positivism, Hale demonstrates that late nineteenth century liberals embraced this ideology and implemented science as mechanisms of political and social control, that ultimately redefining citizenship and nation in Mexico.⁴⁸

The influence of political internal divisions in the state building process has not only been analyzed in Mexico, but also in Argentina. In 2002, David Rock released *State*

⁴⁵ Barbara Tenenbaum, *The Politics of Penury: Debts and Taxes in Mexico, 1821 – 1856*, University of New Mexico, 1986.

⁴⁶ David Walker, *Review of The Politics of Penury: Debts and Taxes in Mexico, 1821 – 1856*, *The Hispanic American Historical Review*, Vol. 68, No. 1, (February, 1988), 145 – 146.

⁴⁷ Timothy Anna, *Forging Mexico, 1821 – 1835* (University of Nebraska Press, 1998), ix.

⁴⁸ Charles Hale, *The Transformations of Liberalism in Late Nineteenth Century Mexico*, Princeton University Press, 2014.

Building and Political Movements in Argentina, 1860 – 1916. The study covers the civil wars of the 1860s and early 1870s, and the period of national state consolidation ending with the establishment of Buenos Aires as national capital in 1880. Rock showed the existence of various liberal groups and how their political activity shaped the Argentinean liberal state including the definitive implementation of the federal system. The study examines the transition from centralism during the age of Rosas to a democratic system based on elections and popular participation.⁴⁹

The formation of Latin American republics based on liberal ideas promoted popular participation. Many authors have referred to this process in various countries. Florencia Mallon, for example, published in 1995 *Peasant and Nation: The Making of Post-colonial Mexico and Peru*, examining popular movements in Mexico and Peru during the second half of the nineteenth century showing that peasants, having realized their significance within agricultural economies, developed movements of protest against national oligarchies and relying on liberal ideas, ultimately, influenced political decisions and outcomes.⁵⁰ Along the same lines, Peter F. Guardino published *Peasants, Politics and the Formation of Mexico's National State: Guerrero, 1800 – 1857* in 1996, where he examines the formation of Mexico's national political system through local struggles and alliances that involved groups from impoverished rural majorities of the region of Guerrero.⁵¹ Guardino also published *The Time of Liberty: Popular Political Culture in Oaxaca, 1750*

⁴⁹ David Rock, *State Building and Political Movements in Argentina, 1860 – 1916*, (Stanford University Press, 2002), 1 – 6.

⁵⁰ Florencia E. Mallon, *Peasant and Nation: The Making of Postcolonial Mexico and Peru* (University of California Press, Los Angeles, 1995), xviii.

⁵¹ Peter Guardino, *Peasants, Politics and the Formation of Mexico's National State: Guerrero, 1800 – 1857*, (Stanford University Press, Los Angeles, 1996), 2.

– 1850 in 2005, where he describes the assimilation of liberal politics by popular groups, which caused their increasing participation in the electoral system.⁵²

The increasing popular participation through the nineteenth century has been also analyzed on urban Latin American settings. In 1998, for instance, Hilda Sabato published *The Many and the Few: Political Participation in Republican Buenos Aires*, focusing on the involvement of middle and lower classes in the electoral processes in Buenos Aires between the decades of 1860 and 1870.⁵³ Following a related approach, Karen Caplan published *Indigenous Citizens: Local Liberalism in Early National Oaxaca y Yucatan* in 2010. In this book, Caplan examines the assimilation of liberal notions of citizenship, economy, taxes, and land reform by indigenous groups.⁵⁴ Timo Schaefer, on the other hand, published *Liberalism as Utopia: The Rise and Fall of Legal Rule in Post-Colonial Mexico, 1820 -1900*. In this work, Schaefer explains how Mexican liberalism considered the social role of convicts in their criminal prosecution and how the new republic expected the integration and collaboration of all their citizens.⁵⁵

Historiography on Latin American liberalism has also focused on economic reforms. Liberal economic policy included free trade and, by the second half of the nineteenth century, most countries became exporters of raw materials to the North

⁵² Peter Guardino, *The Time of Liberty: Popular Political Culture in Oaxaca, 1750 – 1850*, Duke University Press, Durham, 2005, and Everard Meade, *Review of The Time of Liberty: Popular Political Culture in Oaxaca, 1750 – 1850 by Peter Guardino*, *Journal of Latin American Studies*, Vol. 38, No. 3, (Aug. 2006), 628.

⁵³ Hilda Sabato, *The Many and the Few: Political Participation in Republican Buenos Aires* (Stanford University Press, California, 2001), 2 – 3.

⁵⁴ Karen Caplan, *Indigenous Citizens: Local Liberalism in Early National Oaxaca y Yucatan*, Stanford University Press, 1996.

⁵⁵ Timo Schaefer, *Liberalism as Utopia: The Rise and Fall of Legal Rule in Post Colonial Mexico, 1820 – 1900*, Cambridge University Press, 2017.

Atlantic. Joseph Love and Nils Jacobsen published in 1988 a collection of seven articles regarding the implementation of economic liberalism in different regions of Latin America, *Guiding the Invisible Hand: Economic Liberalism and the State in Latin American History* including Argentina, Brazil, Chile, Mexico, New Grenade and Peru.⁵⁶ Authors remarked the economic growth that characterized the second half of the nineteenth century in Latin America, as well as the weaknesses derived from the integration of young republics into a market economy dependent on the exportation of a limited amount of products, as well as the influence of politics and war on the economy. Each of the authors who contributed to the volume published a monograph during the following years. The first of them was Paul Gootenberg who, in 1989, put out *Between Silver and Guano: Commercial Policy and the State in Post-independence Peru*.⁵⁷ In this work, Gootenberg explores the liberal Age of Guano, focusing on the process of integration of Peruvian economy to external markets and its social and political effects, with attention to the role of the elites in control of both trade and state.⁵⁸

The liberal agenda also modified Latin American colonial societies, although multiple elements from the colonial past survived such as the subordination of the women, the illegitimacy of children conceived out of marriage, and other familial issues related to patrimony and inheritance. Christine Hunefeldt, for example, examines in *Liberalism in the Bedroom: Quarreling Spouses in Nineteenth Century Lima* legal actions initiated by

⁵⁶ Joseph Love and Nils Jacobsen, *Guiding the Invisible Hand: Economic Liberalism and the State in Latin American History*, Praeger Publisher, New York, 1988.

⁵⁷ Paul E. Gootenberg, *Between Silver and Guano: Commercial Policy and the State in Post-Independence Peru*, Princeton University Press, 1989.

⁵⁸ Gootenberg, viii; 15 – 16.

Peruvian wives trying to prove that family issues were associated with the larger economic and political transformations in Peru from 1790 to 1910.⁵⁹ Asunción Lavrin, on the other hand, put out *Women, Feminism and Social Change in Argentina, Chile and Uruguay, 1890 – 1940*, where she explores the changing role of women in society, as many gendered issues became part of the public spaces such as maternity, sexuality, childcare and social hygiene.⁶⁰ A third example, Elizabeth Dore and Maxine Molyneux edited *Hidden Histories of Gender and the State in Latin America* and, through fourteen essays, they demonstrate that women had an increasing participation in the consolidation of the Latin American republics between the late eighteenth and the second half of the twentieth century.⁶¹ In 2009, Donna Guy published *Women build the Welfare State: Performing Charity and Creating Rights in Argentina, 1880 – 1955* focusing on the conflicts of gender and the role of women in the transformations of the Argentinean liberal state through their charitable work.⁶² Finally, Nara Milanich explored historical ethnography of children and filiation in Chile during the liberal era in *Children of Fate: Childhood, Class, and the State in Chile, 1850 – 1930*.⁶³ In this work, Milanich proves that liberalism showed little change in reference to illegitimate children during that period, while demonstrating the influence of

⁵⁹ Christine Hunefeldt, *Liberalism in the Bedroom: Quarreling Spouses in Nineteenth Century Lima*, Pennsylvania State University Press, 2000.

⁶⁰ Kristin Ruggiero, *Review of Women, Feminism and Social Change in Argentina, Chile and Uruguay, 1890 – 1940*, *The Americas*, Vol. 53, No. 1, (Jul. 1996), 176.

⁶¹ Elizabeth Dore and Maxine Molyneux, *Hidden Histories of Gender and the State in Latin America*, Duke University Press, 2000.

⁶² American Sociological Association, *Review of Women build the Welfare State: Performing Charity and Creating Rights in Argentina, 1880 – 1955*, *Contemporary Sociology*, Vol. 39, No. 3 (May, 2010), 361.

⁶³ Nara B. Milanich, *Children of Fate: Childhood, Class and the State in Chile, 1850 – 1930*, Duke University Press, 2009.

legislation, with the analysis of the Chilean Civil Code of 1855, in the implementation of the liberal reforms.

Social transformations during the liberal period transcended gender and familiar issues, including also modifications in ethnic and racial relations. The most significant modification in this regard was the abolition of slavery, gradually achieved through the nineteenth century in Latin America, resulting in a slow process of social integration of former slaves with Creoles and indigenous communities. Recent historiography has reviewed these processes. Brooke Larson, for example, analyzes the racial conflicts experienced in Latin America during the formation of the nations through the nineteenth century in *Trails of Nation Making: Liberalism, Race and Ethnicity in the Andes, 1810 – 1910*, published in 2004.⁶⁴ In this study, she focuses on the application of liberal agendas in four Latin American countries -- Colombia, Ecuador, Bolivia and Peru -- describing the impact of economic liberalism in these places and how indigenous communities ended up being segregated and displaced to the social periphery. Also applicable to this analysis is the aforementioned book by Charles Hale, *The Transformations of Liberalism in Late Nineteenth Century Mexico*, where he describes the role of the so-called *Científicos*, a cadre of positivist advisors and state officials, during Porfirio Diaz's regime. They were instrumental in the implementation of Social Darwinism as a social segregationist approach to social engineering.⁶⁵ Also referring to Mexico, Robert Buffington published in 1992 *Criminal and Citizen in Modern Mexico*, showing how liberalism joined positivism during

⁶⁴ Brooke Larson, *Trials of Nation Making: Liberalism, Race and Ethnicity in the Andes*, Cambridge University Press, 2004.

⁶⁵ Charles Hale, *The Transformations of Liberalism in Late Nineteenth Century Mexico*, Princeton University Press, 1989.

the late nineteenth century to criminalize and deprive of citizenship rights those seen as deviants from society, including racially mixed sectors of society and “*indios*.”⁶⁶

Studies on Latin American liberalism have also included Brazil. In that country, the remaining monarchical power in the figure of Emperor Pedro I constituted the biggest obstacle when the most important political transformation would require his removal from power and the establishment of a republic. Linda Lewin describes this conflict in *Surprise Heirs: Illegitimacy, Inheritance Rights, and Public Power in the Formation of Imperial Brazil*. Although Lewin focuses on inheritance rights and related legal transformations in modern Brazil, she examines the parliamentary debates during the nineteenth century and documents the existence of political tensions in a liberal period.⁶⁷ Emilia Viotti da Costa, in turn, analyzed, in *The Brazilian Empire: Myths and Histories*, the conflicts among Brazilian liberals and how some of them assumed rather conservative positions.⁶⁸ Richard Graham also reviews the internal politics of Brazil in *Patronage and Politics in Nineteenth Century Brazil* focusing on the relationship between patronage and politics after the declaration of independence.⁶⁹ Finally, Peter Beattie published *The Tribute of Blood: Army, Honor, Race, and Nation in Brazil, 1864 – 1945*, in 2001.⁷⁰ In this work, Beattie examines

⁶⁶ Robert M. Buffington, *Criminal and Citizen in Modern Mexico* (University of Nebraska Press, 1992), 8.

⁶⁷ Linda Lewin, *Surprise Heirs: Illegitimacy, Inheritance Rights, and Public Power in the Formation of Imperial Brazil, 1822 – 1889*, Vol.2 (Stanford University Press, 2003), 3 – 80.

⁶⁸ Emilia Viotti da Costa, *The Brazilian Empire: Myths and Histories*, University of Chicago, 1985.

⁶⁹ Richard Graham, *Patronage and politics in Nineteenth Century Brazil* (Stanford University Press, 1990), 3.

⁷⁰ Peter Beattie, *The Tribute of Blood: Army, Honor, Race, and Nation in Brazil, 1864 – 1945*, Duke University Press, 2001.

racial tensions related to service in the Army, also connected to the new notions of honor and nationalism developed by Afro-Brazilians during the nineteenth century.⁷¹

As in the rest of Latin American countries, Cuban liberalism has also studied from different perspectives. Sigfrido Vázquez Cienfuegos, for example, explains the formation of the *Junta de la Habana*, or local government, between 1808 and 1810 and the first manifestations of liberalism tied to colonial institutions.⁷² Along the same lines, Olga Portuondo Zúñiga published in 2008 two volumes titled “Cuba: Constitution and Liberalism” where she explains the rise of liberalism in Cuba during the first Spanish constitutional period and its lasting effects in Havana and other territories such as Santiago de Cuba.⁷³ Both studies emphasize the political and legal transformations associated to Cuba’s early liberalism, and include the role of prominent contemporary lawyers such as Francisco de Arango y Parreño or Prudencio Echevarría O’gavan.

Other scholars have studied liberal reforms during the mid-nineteenth century. Louis Pérez wrote one of these accounts, *Winds of Change*, which describes the transformations that took place in Cuba in the aftermath of the hurricanes affecting the island between 1840 and 1846.⁷⁴ This book analyzes the political, social and economic reforms and even mentions lawyers such as Domingo del Monte and José Antonio Saco.

⁷¹ James Woodard, review of *The Tribute of Blood: Army, Honor, Race, and Nation in Brazil, 1864 – 1945*, *International Labor and Working Class History*, No. 65, Agricultural and Working Class Formation (Spring, 2004), 213 – 215.

⁷² Sigfrido Vazquez Cienfuegos, *La Junta de la Habana: Adaptación del Pacto Colonial en Cuba en Vísperas de las Independencias Hispanoamericanas, 1808 – 1810*, Consejo Superior de Investigaciones Científicas, Sevilla, 2013.

⁷³ Olga Portuondo Zúñiga, *Cuba: Constitución y Liberalism (1808 – 1841)*, Editorial Oriente, Santiago de Cuba, 2008.

⁷⁴ Louis Pérez, *Winds of Change: Hurricanes and the Transformations of Nineteenth Century Cuba*, University of North Carolina Press, 2001.

Another event of the 1840s Cuba that the historiography has covered is the repression of La Escalera, a slave rebellion. In *The Year of the Lash*, for example, Reid Vázquez explains the racial and social struggles related to the control of the slave revolt in Havana in 1844, while describing other manifestations of liberalism in reaction to the repression.⁷⁵ Special attention to the *Junta de Información* of 1866, a government body created to inform the Spanish Cortes of the Cuban problems, appears in an article by María Dolores Domingo Acebrón published in 2002.⁷⁶

Authors have also covered the period of the Ten Years War for independence between 1868 and 1878 as a liberal revolt. They have focused on specific aspects of the liberal agenda that developed during that military struggle, such as the enactment of the Moret Law in 1870 and the beginning of the gradual abolition of slavery. Corwin, among others, has explained how was it possible to initiate the emancipation in the context of the war as part of Spanish policy to preserve and appease Cuba.⁷⁷ Corwin also notes the liberal approach of the reforms implemented during that period, and the interconnection with Spanish history when he identifies that these events happened in the aftermath of the “Glorious Revolution” as was called the liberal movement in Spain in 1868. Other accounts, such as surveys of the war, just describe the military and political events following a rather traditional narrative without particular attention to collective action on the part of strategic sectors of society, lawyers in particular. Additionally, the Cuban

⁷⁵ Michele Reid-Vazquez, *The Year of the Lash: Free People of Color in Cuba and the Nineteenth Century Atlantic World*, The University of Georgia Press, 2011.

⁷⁶ María Dolores Domingo Acebrón, *La Junta de Información en Madrid para las reformas en las Antillas, 1866*. Hispania Magazine, LXII/1, núm. 210 (2002), 141 – 166.

⁷⁷ Arthur Corwin, *Spain and the Abolition of Slavery in Cuba, 1817 – 1886*, University of Texas Press, 1967.

Revolution of 1959 identified this period of war as a first stage of a continuous process of fight for the independence of the island, and downplayed the liberal agenda dominating this period or its connection with the subsequent events in the twentieth century that ended in the establishment of a socialist regime.⁷⁸ This interpretation distorted the actual political ideology that backboned the uprising of 1868 and lawyers, usually officials of the colonial establishment, did not receive the attention it deserved since they were essential in the mobilization and organization of the war.

A number of Latin American countries have documented the role of lawyers in independentist movements as part of the study of their political and social history. In 2012, the Spanish editorial Marcial Pons, for example, published a compilation of articles about the key role of lawyers in the separatist processes of the nineteenth century across Latin America. In that account, an article by Dr. Beatriz Bernal addresses the participation of some lawyers in Cuba's late nineteenth-century independence.⁷⁹ The article focused on those lawyers who have been traditionally identified as leaders of the Cuban revolutionary feat such as Carlos Manuel de Céspedes and Ignacio Agramonte. The piece also includes short lists of other known jurists with basic biographical data mostly relying on secondary sources; but the information is very limited. In spite of the limitations of this article, it was a first attempt to highlight the participation of legal professionals in the Cuban separation from Spain, as part of the implementation of a radical liberal agenda.

⁷⁸ José Cantón Navarro, and others, *Historia de Cuba: Las luchas por la independencia nacional y las transformaciones estructurales, 1868 – 1898*, Editora Política, Havana, 1996.

⁷⁹ Beatriz Bernal Gómez, *Juristas de la Independencia*, in José María Pérez Collados and Samuel Rodríguez Barbosa (eds.), *Juristas de la Independencia*, Editorial Marcial Pons, 2012, pp. 251 – 289.

Other works on Cuban liberalism focus on the post-1868 war, when Spain implemented the largest number of liberal reforms on the island. These works have covered multiple issues such as the abolition of slavery or the formation of political parties. One of these accounts is by Inés Roldán de Montaud.⁸⁰ In it, the author detailed every aspect concerning the formation of a local political system on the island during the second half of the nineteenth century, including the creation of political parties and the establishment of an electoral system for local representatives within the limitations of an increasingly conservative liberalism. Within the liberal agenda, autonomism has received special attention. Luis Miguel García Mora, for example, has examined autonomist concessions, which Spain only granted to Cuba and Puerto Rico at the end of 1897, as part of a wider liberal agenda. In a group of articles, García Mora explores the ideas of local government among Cubans, and occasionally remarks on the participation of lawyers in this political project, which was the case of José María de Labra.⁸¹ Other authors have also covered the issue of autonomism with compilations of the documents that supported that government, without paying major attention to those involved in the process and the social transformations around that political movement. In 1998, for example, Marta Bizcarrondo published “The Contemporary Colonial Problem,” which comprised a collection of autonomist documents, including a series of presentations that Cuban politicians addressed

⁸⁰ Inés Roldán de Montaud, *La restauración en Cuba: el fracaso de un proceso reformista*, Consejo Superior de Investigaciones Científicas, Madrid, 2000.

⁸¹ See for example, Luis Miguel García Mora, *La fuerza de la palabra: El Autonomismo en Cuba en el último tercio del siglo XIX*, Revista de Indias 41, No. 223 (2001), 715 – 48; Luis Miguel García Mora, *Labra, el Partido Autonomista Cubano y la Reforma Colonial, 1876 – 1886*, Tebeto, Anuario del Archivo Histórico Insular de Fuenteventura, T. 1. Num. 5, Fuenteventura, 1993, 397 – 415; and Luis Miguel García Mora, *El Retraimiento Autonomista de 1891 – 93*, in Josef Opatrny, *Proyectos políticos y culturales en las realidades caribeñas de los siglos XIX y XX*, Charles University in Prague, Karolinum Press, 2016, pp. 99 – 109.

in Madrid in 1895, shortly before the separatist uprising in Baire and other localities of the island.⁸² Almost all of them were lawyers, but this aspect was not properly explored in the introductory analysis presenting the publication. A Cuban scholar, Yoel Cordovi, explores the political and social transformations that took place in Cuba after the war, including an analysis of how liberalism became increasingly conservative under the intellectual trends of legal anthropology and the rise of capitalism and commerce.⁸³ Similar to Roldán de Montaud, Cordoví considered the establishment of the liberal regime in Cuba a period of crisis and a failure, although significant reforms were enforced.

A contested topic in the historiography is the influence of positivism in Cuba and its existence beyond the legal field. Authors such as Isabel and Olivia Miranda question the extent of Cuban positivism, while other scholars such as Pedro Pruna proved the development of positivism and Darwinism movements but do not explain how they may have been involved in legal practice or training.⁸⁴ Hence, those authors manifest a gap in the historiography. At the same time, while Enrique José Varona is renowned as the promoter of Cuban positivism, local figures of legal scholarship remain unknown.

The issue of the abolition of slavery in 1886 is the aspect of Cuban liberalism most largely explored in the historiography. Starting with Corwin in 1967, many other authors have identified Cuba as a target for research on racial issues, the quest for abolition and the

⁸² Marta Bizcarrondo, *Rafael María de Labra: El Problema Colonial Contemporáneo*, Universidad de Oviedo, 1998.

⁸³ Yoel Cordoví Nuñez, *Liberalismo, crisis e independencia en Cuba, 1880 – 1904*, Editorial de Ciencias Sociales, La Habana, 2003.

⁸⁴ Isabel Monal and Olivia Miranda, *Filosofía e ideología de Cuba, siglo XIX*, UNAM, 1994, 27; and Pedro M. Pruna, *Historia de la ciencia y la tecnología en Cuba*, Editorial Científico-Técnica, 2006.

failing process of social integration that followed emancipation.⁸⁵ Some of them are Alejandro de la Fuente, Rebecca Scott, Franklin Knight, Christopher Schmidt-Nowara, and Aline Helg.⁸⁶ These scholars constantly referred to the legal transformations that enabled the abolition of slavery, as well as the role of some jurists, either as political activists, judges or lawyers, in the abolitionist movement. None of these works, however, attempt to identify professional connections based on legal training or elements that would form a collective biography of lawyers during the nineteenth century. A last example appears in 2013 with David Sartorius' *Ever Faithful*, a work that relies on abundant biographical information of the Afro-Spanish abolitionist Rodolfo Lagardere; but he never mentions that he was a lawyer. This confirms that authors have not paid proper attention to the professional identity of some of the historical actors, in particular those who were members of the legal profession.⁸⁷

The last phase of Cuba's nineteenth century traditionally comprised the last war of independence, the ultimate Spanish efforts to preserve the island, and the American intervention of 1898. This era has been covered by the historiography, being Louis Pérez one of the authors that most extensively has studied these years with several accounts such as *Cuba Between Empires* (1983), *Cuba and the United States* (1990), *The War of 1898*

⁸⁵ Arthur Corwin, *Spain and the Abolition of Slavery in Cuba, 1817 – 1886*, University of Texas Press, 1967.

⁸⁶ See Alejandro de la Fuente, *A Nation for All: Race, Inequality and Politics in Twentieth Century Cuba*, University of North Carolina Press, 2001; Christopher Schmidt-Nowara, *Empire and Anti-Slavery: Spain, Cuba and Puerto Rico, 1833 – 1886*, University of Pittsburgh Press, 1999; Aline Helg, *Our Rightful Share: the Afro-Cuban Struggle for Equality, 1886 – 1912*, University of North Carolina Press, 1995; Franklin W. Knight, *Slave society in Cuba during the nineteenth century*, University of Wisconsin Press, 1970, and Rebecca Scott, *Slave emancipation in Cuba: the transition to free labor, 1860 – 1899*, University of Pittsburgh Press, 1985.

⁸⁷ David Sartorius, *Ever Faithful: Race, Loyalty, and the Ends of Empire in Spanish Cuba* (Duke University Press, 2013), 138.

(1998), and *On Becoming Cuban* (1999).⁸⁸ In all these accounts, Pérez describes the transition of Cuba from a Spanish to an American territory, and its social, political and economic effects. In contrast with the previously referred authors, Pérez included an extensive list of lawyers that started providing legal services to the American corporations after 1899. Another scholar, Matthew Mirow, has also made a recent approach to that period with a study of some Military Orders, and their impact on the Cuban legal system and professional practice.⁸⁹ These works, while upholding the argument that there was support and collaboration from different sectors of Cuban society for the intervention, did not include any specific analysis concerning the role of lawyers as a professional group.

A last aspect this study uncovers is the constitutional work of Cuban lawyers through the nineteenth century, ending in the Constitutional Assembly of 1901. Articles and books on Cuban legal history provide particular studies of each project and constitution. These works, however, are mostly positivist and do not provide the social side of the political history that this research seeks. The Constitution of Guáimaro, for example, has been studied. However, very little is known about those who wrote the Constitution, as well as other revolutionary laws during that period. This is, hence, one of the most important goals of this project: to unveil the authors, mostly lawyers, of the constitutions and laws of the Cuban Republic in Arms in 1869 and then again in 1895 and 1897. Similarly, the

⁸⁸ See Louis Pérez, *Cuba Between Empires 1878 – 1902*, University of Pittsburgh Press, 1983; Louis Pérez, *On Becoming Cuban: Identity, Nationality and Culture*, University of Pittsburgh Press, 1983; Louis Pérez, *Cuba and the United States: Ties of Singular Intimacy*, University of Georgia Press, 1990; and Louis Pérez, *The War of 1898: the United States and Cuba in History and Historiography*, University of North Carolina Press, 1998.

⁸⁹ Mirow, M.C., *Military Orders as Foreign Law in the Cuban Supreme Law, 1899 – 1900*, in S. Dawley, W.H. Bryson, and M.C. Mirow, eds. *Ratio Decidendi: Guiding principles of judicial decisions*, Vol. 2, Duncker and Humblot, 2010.

Constitution of 1901 has been largely criticized as a product of the American intervention. This dissertation, by contrast, highlights the work of those lawyers who participated of that Constituent Assembly, proving the key role of Cuban legal professionals in the drafting of this text, and leading the debates of the first national constitution. Alejandra Bronfman and Alejandro de la Fuente, for instance, have addressed specific issues in discussion during that Constituent Assembly, such as equality and freedom of religion. They have not paid attention, though, to those who were discussing those articles, their background and the fact that lawyers comprised half of that assembly and were in charge to the most important heavy lifting during their sessions.⁹⁰

In spite of the silence about lawyers through most of the historiography, scholars have studied the role of other professional groups on the island. Emilio Roig de Leuscherling, for example, published in 1965 the history of medicine and medical doctors in Cuba, a significant study at a moment when most physicians were leaving Cuba and the revolutionary government increased their demands for health professionals on the island.⁹¹ A more recent study of Lilian Llanes, during a moment of increasing housing problems across the island, studied those involved in the construction field such as architects, engineers and related workers as a common professional group.⁹² Besides attention to the revolutionary context and implications, there have also been studies that approached

⁹⁰ Alejandro de la Fuente, *A Nation for All: Race, Inequality and Politics in Twentieth Century Cuba*, University of North Carolina Press, 2001; and Alejandra Bronfman, *Measures of Equality: Social Science, Citizenship and Race in Cuba, 1902 – 1940*, University of North Carolina Press, 2004.

⁹¹ Emilio Roig de Leuscherling, *Médicos y medicina en Cuba: historia, biografía y costumbrismo*, Museo Histórico de las Ciencias Médicas, 1965.

⁹² Lilian Llanes, *Apuntes para una historia sobre los constructores cubanos*, Editorial Letras Cubanas, 1985.

professional groups based on a common origin or background, such as a compilation of biographies of professors from the Canary Islands who moved to Cuba during the nineteenth century.⁹³ Scholars in the United States have also pursued studies focused on other groups of individuals based on their common professions, for instance, the analysis of urban workers by Joan Casanovas in 1998, and the study of prostitutes by Tiffany A. Sippial in 2013.⁹⁴ Lawyers, however, a fast growing professional group with high impact on the transformations of the island during the nineteenth century and Atlantic or global interconnections, remain understudied.

Structure of the dissertation

This dissertation is comprised of five chapters. Chapter 1 covers the origins of the legal profession in Cuba and the fast growth of the number of lawyers during the first decades of the nineteenth century. The chapter provides a succinct overview of Cuban legal professionals between the sixteenth and the eighteenth centuries and explains how the conditions for the increase of the number of lawyers changed at the turn of the nineteenth century when legal professionals of Spain and Spanish America relocated in Cuba, and the liberal ideas increasingly appeared in centers of legal training and education. It explains how some of them started demanding social, political and economic reforms until 1833, while the Spanish crown enabled policies to reduce their number. The Spanish policy remained and Ferdinand VII enacted various pieces of legislation during the last twenty years of his reign to limit the number of legal professionals on the island and to control the

⁹³ Olegario Negrín Fajardo, *Profesores canarios en Cuba durante el siglo XIX*, Ediciones del Cabildo de Gran Canaria, 2000.

⁹⁴ Joan Casanovas, *Bread or Bullets! Urban Labor and the Spanish Colonialism in Cuba, 1850 – 1898*, University of Pittsburgh Press, 1998; and Tiffany A. Sippial, *Prostitution, Modernity and the Making of the Cuban Republic, 1840 – 1920*, University of North Carolina Press, 2013.

unauthorized legal practice by those also known as *papelistas* or *picapleitos*. This was the origin of the *Colegios de Abogados*, institutions that the Spanish monarchy authorized in 1819 for Havana and Puerto Príncipe. The *Colegios* set a limit in the number of those who could work as lawyers in those cities while ordering the relocation of the rest of the available lawyers to other towns. This policy even negatively affected members of elitist families, for young law graduates had to wait before being able to settle in Havana as part of the colonial bureaucracy.

Chapter 2 examines the Spanish policies towards lawyers during the liberal regime of Isabel II, while their numbers continued growing, many becoming political leaders of reformist, annexationist and even separatist movements. This chapter covers thirty-five years during which Spanish liberals had seized the government of Madrid and started implementing social and political reforms that involved the legal profession. The reforms included wider access for poor students to the Universities, and the secularization of education in 1842. Therefore, that period shows a growing contradiction between those who wanted the island to continue being a part of the Spanish Empire, and those who even supported the annexation of Cuba to the United States. Around the same time, lawyers started creating personal bonds through marriages that strengthened the network of legal professionals on the island. Following the instructions to limit the number of lawyers, Captain General Concha ordered the establishment of the *Colegio de Abogados* in Havana in 1852, which closed the same year as a result of the perception of becoming an alleged center of annexationist conspiracies. During the following decades, Spain implemented a policy of tolerance for Cuba that included the reform of the plan of studies of the School of Law and the incorporation of liberal courses such as Political Economy. At the same

time, the Junta de Información of 1866, comprised of various legal professionals, and failed to reach a solution to the Cuban problems, triggering the aspiration of independence among creoles.

Chapter 3 explores the role of lawyers during the Ten Years War for independence, either as supporters or opponents, and the impact that the war had on the legal training, even on the availability or distribution of legal services across the island. This chapter unveils the role of lawyers in the mobilization and organization of the war, as well as their formation of a republican government and the enactment of progressive laws that would be applied to the freed territories. It also proves that some *Colegios de Abogados*, such as those in Bayamo and Puerto Príncipe, were instrumental in the uprising of those territories, and involved in the subsequent political conflicts. This chapter explains how the war affected legal training. The Doctorate in Law, for example, was suppressed. Yet, a higher number of lower-income students could study under need-based scholarships while elite families sent their young members to study abroad. Additionally, the first Afro-descendant graduate of an Afro-descendant background arrived in Cuba during the war and remained on the island thereafter becoming an active abolitionist, along with many other lawyers who continued lobbying for that reform from Spain. In 1878, the signature of the peace brought peace to the island launching a process of reconciliation. Many lawyers who rose in arms in 1868 ended up assuming public offices or continued working as legal professionals.

Chapter 4 unveils the active participation of lawyers in the implementation of reforms during the aftermath of the war, such as the formation of political parties and the abolition of slavery. It addresses the existence of positivist ideas in Cuba and discusses how they may have distorted the application of a liberal agenda on the island. In 1879,

Spain authorized to reopening of the *Colegio de Abogados* in Havana and other localities to keep political control over lawyers and professionalize of their services. Thus, the *Colegios* oversaw the activities of lawyers while forcing them to act in accordance to the laws, ensuring in particular that they remain loyal to Spain. Under these ideas driven by a concern over order, Cuban lawyers still pursued a liberal agenda and became intensely involved in the local political system with the creation of political parties, calling for elections on the island and promoting the abolition of slavery. Positivism, however, brought to Cuba a pseudo-scientific approach, identifiable at the time across Latin America. It involved a new perception of the racial order that upheld the superiority of one race above the others. Hence, although liberalism had promoted emancipation and equality, positivism constituted an obstacle that even many liberals eventually embraced. Yet, the process of racial integration advanced and an Afro-Cuban became *procurador* in 1893, while another enrolled in the School of Law at the University of Havana the following year. Also in 1893, the first woman graduated from the School of Law, Francisca Rojas Sabater, a schoolteacher who made her way through a patriarchal society to earn her law degree.

Finally, using the community of lawyers as a window, chapter five explains the convergence of separatist and autonomist movements in late colonial Cuba. It discusses how the American intervention in 1898 truncated these parallel views causing a realignment of political forces and the rise of a moderate liberalism that ultimately materialized in the constitution of 1901. This chapter describes how the mobilization of lawyers for the 1895 war was not as massive as during the war of 1868, especially after most lawyers had become members of the Liberal Party claiming autonomism rather than independence. Yet, a significant group of legal professionals eventually joined the Cuban

Army to work as secretaries, advisors, and drafters of the revolutionary constitutions. Both autonomists and independentist joined the American interventionist government in 1899 and tried to pursue their political agendas. One of the most important liberal reforms with the highest impact on the Cuban legal community was the suppression of the public status of the *Colegio de Abogados* in December of 1900. The institution survived as a space for the gathering of elitist members of the profession. At the same time, the United States ordered the writing of a constitution that would create a Cuban Republic. During those sessions, most delegates, identified themselves as liberals proving in the process the existence of multiple tendencies under the broad term of liberalism. This culminated a century of development of liberalism in Cuba.

Sources

Research for this dissertation began in 2006, when as a young member of the School of Law of the University of Havana I conducted fieldwork on the history of the teaching of Roman Law in that academic center. At that time, I worked at the Historical Archive of the University of Havana and only focused on certain aspects of the professional life of the faculty members who had taught either Roman Law or History of Law between 1842 and 1990. Some of that initial material allowed me to complete biographies of some lawyers, with special attention to legal training and the reforms involving the faculty of law and, more specifically, the Chair of Roman Law.

Once in the FIU doctoral program, in 2013, I started collecting information from the Spanish archives that are available in digital format. This online research showed that the available information was abundant. Still, it also suggested that there were many documents in hard copy that required access to physical archives in Spain. I planned

research stays in two Spanish archives: The General Archive of Indies in Seville, and the National Historic Archive in Madrid between 2014 and 2018. Documents reviewed in those archives were diverse, including royal orders and decrees, personal and official communications, applications for academic, bureaucratic or judicial positions, records of merits and services, and, reports of the colonial authorities to Madrid containing vital information about those who were lawyers, their professional aspirations and relocations, data relevant to develop a collective biography.

After two years of work in the Spanish archives, I realized that the information was still disperse and fragmentary and that it was necessary to consult additional sources. Consequently, and benefiting from more open diplomatic ties between Cuba and the United States, I applied and obtained three different sources of funding to conduct research in Havana during different stays between 2016 and 2017. Although the Historical Archive of the University had provided valuable information in the past, this time I worked two other institutions with the largest amount of documentation about lawyers from the nineteenth century on the island: The National Archives of Cuba, and the National Library, both located in Havana. In the National Archives, I had access to professional and personal letters from and to lawyers, royal orders regulating their profession, list of lawyers who were members of the *Colegios de Abogados*, as well as authorizations to practice and appointments to public positions, which many times contained records of merits and services. The National Library was extremely important in this research.

In the National Library, I reviewed issues of the *Magazine of Legislation and Jurisprudence*, and the *Cuban Magazine*, among other periodical publications managed by Cuban lawyers that promoted liberal reforms on the island. The National Library also

preserved the Statutes of the Colegio de Abogados in Havana and other provinces after 1879, including the reforms and revisions after the privatization of this institution in 1900. In those issues, there are also lists of lawyers who were members of the *Colegio*. Considering that membership was mandatory, that material also allowed me to know the names, addresses, year of graduation and other important data for lawyers in Cuba at the end of the nineteenth century.

The most important materials to develop the list of lawyers, however, were not those relations attached to the statutes of the *Colegios de Abogados*, but the lists contained in the *Guías de Forasteros* that Cuba started publishing in the later eighteenth century and would continue to issue until the 1880s. Every issue contained the list of lawyers organized by locality and, in some years by seniority and in yet others based on the year of admission to legal practice. This information allowed me to create, for example, generational clusters, while seeking connections that would allow me to understand why some lawyers engaged in certain activities while others did not. The *Guías* also describe the official positions within the local government, the judiciary, and academic institutions including those providing legal training, thus becoming an indispensable source to reconstruct key features of the legal profession and Cuban society more broadly. Being an annual publication, the complete collection of the *Guías* offer an overview of the Cuban nineteenth century.

Another archive that I visited in the course of this research was the National Archive of the Nation in Mexico City in 2015. Since the beginning of my readings for this project, I identified multiple points of contact between Mexico, then Viceroyalty of New Spain, and Cuba, which was a *Capitanía General* subordinated to this mainland territorial division. Hence, I spent few weeks looking for information related to Cuban lawyers that

could have moved from Mexico to Cuba and vice versa during the nineteenth century. The available data was limited, but I found professional letters, orders and decrees containing official appointments, and documents of entrance of Cubans such as José María Heredia, a Cuban attorney, to New Spain. There is also personal information including marriages and familiar connections that forced the relocation of some legal professionals. This data supported my analysis of the migration of lawyers during the early nineteenth century, and the argument that there was a line of communication between legal professionals of the island and those in the mainland.

Other primary sources consulted consisted of accounts of contemporaries narrating historical events as they occurred. One of those cases was the story of the Ten Years War written by Vidal y Morales as part of the biography of Rafael Morales González. In this piece, Vidal y Morales provided details that confirmed the indispensable role of Eastern Cuba lawyers in the preparations of the war. At the same time, Vidal offered information that has remained ignored by traditional political history and that is relevant to the formation of a Cuban republic in 1869, such as the establishment of a military system of justice with residence in Sibanicú, or the law of universal education that the Cuban House of Representatives successfully passed in 1870.⁹⁵ Other accounts written by contemporaries are “Cuba and the Cubans” by Raimundo Cabrera, and “Tampa: Impressions of a Émigré,” by Wenceslao Gálvez del Monte, both of whom were also lawyers.⁹⁶

⁹⁵ Vidal Morales y Morales, *Hombres del 68: Rafael Morales y Gonzalez*, Imprenta y Papelería de Rambla y Bouza, 1904.

⁹⁶ Wenceslao Gálvez del Monte, *Tampa: Impresiones de Emigrado*, Establecimiento Tipográfico Cuba, Tampa, 1897; and Raimundo Cabrera, *Cuba and the Cubans*, the Levytype Company, Philadelphia, 1896.

An essential part of the sources was legislation. The legal sources for this work, however, were dispersed and it was necessary to gradually reconstruct the legal framework appropriate to each chapter. Regulations on lawyers were found mostly in compendiums of Spanish legislations from jurists of the nineteenth century that comprised laws from the previous centuries. Yet, the regulations on lawyers increased in proportion to the size of the community of professionals. There were multiple compilations regulating different aspects of this professional activity by the mid-nineteenth century.⁹⁷ During the last decades of the 1800s, however, modern codifications of the laws became predominant and regulations on lawyers could be found more easily in specific laws such as the Spanish Organic Law of the Judicial System of 1870. Other laws consulted as primary sources were the Spanish Codes and Constitutions of the nineteenth century, Cuban revolutionary legislation, and the military orders of the American interventionist government, compilations mostly available online.

Areas of study

This dissertation covers multiple areas of study beyond the limits of traditional political history. Although the narrative addresses very-well known events that took place in nineteenth century Cuba, there are several contributions with an original and revisionist perspective that attempt to bring a new light into nationalist and socialist discourses prevailing on the island through the nineteenth century. Additionally, this dissertation

⁹⁷ See for example Lorenzo Arrazola, *Enciclopedia Española de Derecho y Administración o Nuevo Teatro Universal de la Legislación de España e Indias*, T. IX, Tip. De Antonio Ruis y Rosell, Madrid, 1856; Félix Erenchun, *Anales de la Isla de Cuba: Diccionario administrativo, económico, estadístico y legislativo*, Vol. 2, Imp. La Habanera, Habana, 1857; and Marcelo Martínez Alcubilla, *Diccionario de la administración española: compilación de la novísima legislación de España peninsular y ultramarina en todos los ramos de la administración pública*, Vol. 1, Arco de Santa María, 1892.

comprises a significant amount of untapped archival material making it even a pioneer in multiple fields of Cuban history.

As a first contribution, this work provides a revisionist approach to Cuban liberalism. Traditionally studied by focusing on specific economic, political, intellectual or social issues or shorter periods of time, this dissertation brings a comprehensive narrative that connects the events taking place in Cuba through the nineteenth century and presenting them as a single and continuous process. This perspective, however, should not give the impression that liberalism was a uniform tendency. Quite the opposite, the intention of this work is precisely to document how Cuban liberalism was a dynamic and changing movement that increasingly gained a diverse array of followers, incorporating claims for various social, political, and economic reforms. As a distinctive note, most of these transformations became a legal reality still under the Spanish period, which by the late nineteenth century had brought to Cuba a liberal regime very similar to those in the rest of Latin American independent republics. This dissertation does not regard Cuba as isolated or insular, but as part of larger and more complex set of events closely related to the social, political and economic situation of the Spanish Empire. This dissertation stresses the necessity to study Cuban lawyers to understand the complexity and global nature of imperial policies in the nineteenth century.

The second area of contribution of this work is undoubtedly the study of the history of Cuban lawyers. This is probably the most original part of the work since no previous comprehensive accounts on this topic have been written. In spite of the presence of various famous figures through Cuban history that were lawyers, their professional background, education, and social status have mostly been ignored and only slightly given attention to.

The socialist approach of some Cuban historiography during the second half of the nineteenth century has downplayed the historical role of lawyers seeing them as mere representation of the local bourgeoisie. Only short individual biographies of the most renowned legal professionals, such as Carlos Manuel de Céspedes and Ignacio Agramonte, have been published.⁹⁸ Thus, the collective profile of the group and the existence of organizations of lawyers such as *Colegios de Abogados*, remain unexplored, as does their impact in Cuban history.

The study of lawyers as a professional group expands touches on closely related fields. One of them is the history of the ideas. This dissertation explores some of the ideological movements within the community of legal professionals in Cuba through the nineteenth century, including utilitarianism and positivism. This work notes the existence of positivism in Cuba and clarifies how, although many liberals embraced this ideology based on the notions of progress supported by their “scientific” evidence, it was rather an ‘organic’ and to-down alternative to liberalism. This study also shows the impact of positivism in the studies of law and in the legal system itself, and documents, its presence in the *Círculo de Abogados*, and legal scholarship. This thesis also explains how positivism brought about a reinterpretation of the liberal agenda. During the aftermath to the abolition of slavery, this took the form of discriminatory theories that prevented racial and social integration to Afro-Cubans and other groups.

This dissertation also shows how legal professionals in Cuba followed international legal schools like the German Historical School of Law and legal

⁹⁸ See Tirso Clemente Díaz, *Ignacio Agramonte, estudiante y jurista*, Universidad de la Habana, 1975; and Julio Carreras Collado, *Céspedes*, Editora Política, Havana, 2003.

anthropology, which resulted in original local works and the recognition of Cuban scholars such as Federico Fernández Vallín and Fernando Ortiz. This work, hence, proves the fluid transit of global ideas across Cuba, and shows how they influenced those living on the island.

Closely related to the history of ideas, this dissertation also explores the history of education in Cuba, and more specifically legal training. The topic of education in Cuba is not new to historians and scholars such as Enrique Sosa, Alejandrina Penabad Félix and Teresa Fernández Soneira have published accounts of it.⁹⁹ Unlike those others, this study describes legal training after the secularization of education in 1842, showing how it was reshaping itself based on the events either during the wars for independence or under the military occupation of the island. Additionally, this work describes the faculty members of the University of Havana, those who were the only people authorized to teach law in Cuba during most of the nineteenth century, and that also reflected the ideas and contradictions of their times.

Along with the study of specific individuals, or the collectivity of lawyers, this study also unveils social transformations on the island during the nineteenth century. Chapter one, for example, connects the existence of a public defense system for the poor and slaves in Cuba since the eighteenth century with a mechanism that young lawyers used to enter into the local bureaucracy. Chapter two explains the ascent of families of lawyers into Cuba's elite, creating a network based on marriages, while showing that Spain created

⁹⁹ See Enrique Sosa and Alejandrina Penabad Félix, *Historia de la Educación en Cuba, siglos XVI - XVII*, Editorial Pueblo y Educación, 2001; Enrique Sosa and Alejandrina Penabad Félix, *Historia de la Educación en Cuba: la educación secundaria, técnica y profesional entre 1800 y 1842*, Editorial Pueblo y Educación, 2004; and Teresa Fernández Soneira, *Cuba: Historia de la educación católica, 1582 – 1961*, Ediciones Universal, 1997.

avenues for insolvent students to study in the universities and pursue, among others, law degrees. Chapter three demonstrates that the war created the context for more students to enter the University of Havana with “scholarships of insolvency” when the enrollment abruptly declined, and also for the first Afro-descendant with a law degree to arrive to Cuba from Spain in 1875. Chapter four covers significant transformations in the social field with a direct reflection in the legal field: the graduation from law of the first Cuban woman and the first Afro-Cuban. Finally, chapter five shows the concentration of a local legal elite in the *Colegio de Abogados* after the privatization of this institution in 1900 when the removal of the requirement for membership allowed many young graduates to become lawyers, including the first Afro-Cuban member, Juan Tranquilino Latapier. This investigation also approaches some aspects of economic history specially related to the issue of slavery and the debates around abolition that mostly lawyers led. Thus, the dissertation is representative of the social conflicts of nineteenth century Cuba and illustrates them through the community of legal professionals on the island.

A last significant area of study in this dissertation is the history of the law. As mentioned, the studies of legal history in Cuba have been largely stagnant only focusing on the examination of some institutions and legislation over time. Although this work still returns to some relatively well-known sets of rules such as Cuba’s revolutionary legislation, it includes regulations on lawyers that have been neglected completely by contemporary historiography and that are essential to understand past and present local legal community. The regulations for lawyers, even the requirements to authorize their practice, the debates, and the changes surrounding this legislation are crucial to understand the evolution of the legal professionals on the island and the political events where they

were involved. One of the main legal institutions that this work rescues from Cuba's forgotten past is the *Colegio de Abogados*, which lost its public status in 1900, but survived as an important center of political and social lobby during the first half of the twentieth century in Havana.

Finally, this research also deals with the cultural history of Cuba and shows how, although there were other strong influences such as the United States, the island preserved its Spanish roots, law and the traditions of lawyers being two important elements of continuity after the establishment of the republic. Along the same lines, the dissertation refers to the bibliography in use several times, contributing to the history of books, and the circulation of ideas. In sum, this dissertation offers a revised history of nineteenth century Cuba with incorporation of original data that question positions taken for granted in current historiography. Thus, the history of lawyers not only describes the functioning of a very influential professional group, but also illustrates the social and political transformations taking place across the island showing that essential topics of the history of Cuba remain veiled.

II. CHAPTER 1. Too Many Lawyers: Spanish Control of the Number of Lawyers in Cuba and the Rise of Liberalism.

“There are too many lawyers.”¹⁰⁰ With these words Antonio Ignacio López Matoso, attorney from New Spain, described the city of Havana in 1817. López Matoso made this observation while on his way to exile because of his political activities against Spanish colonialism in the Viceroyalty of New Spain.¹⁰¹ During his trip, he wrote “Perico Ligeró’s trip to the country of the Moors,” a summary of his itinerary that also contains descriptions of the places he visited, including the island of Cuba. Being an attorney himself, apparently realized that there were a significant number of attorneys offering their services through Havana, and did not hesitate to include that impression in his writings. The Spanish Monarchy had also shown concern for the number of lawyers all over Spanish America, and specifically in Cuba, through the colonial period, thus preventing the profession’s growth until the early nineteenth century.

The history of lawyers and the control over their number by Spanish colonialism has proven of interest in contemporary studies of other regions in Spanish America, for example, in the works of Victor Uribe Urán, Rogelio Pérez Perdomo, Renzo Honores and Alejandro Mayagoitia Hagelstein, who have worked on the cases of Colombia, Venezuela, Peru, and Mexico, respectively.¹⁰² Even in regards to the Iberian Peninsula itself, Carlos

¹⁰⁰ Otto Olivera, *Viajeros en Cuba (1800- 1850)* (Ediciones Universal, Miami, 1998), 27. This volume contains testimonials of travelers who visited Cuba during the nineteenth century. Lopez Matoso’s narrative is “*Perico Ligeró’s* trip to the country of the Moors” (*Viaje de Perico Ligeró al país de los Moros*).

¹⁰¹ Alejandro Mayagoitia Hagelstein, *El ingreso al ilustre y real Colegio de Abogados de México: historia, derecho y genealogía* (Facultad de Derecho de la Universidad Panamericana, 1999), 98. Matoso was member of the *Colegio de Abogados* of Mexico since December 6th, 1783.

¹⁰² For those references see Victor Uribe Uran, *Honorable Lives: Lawyers, Family and Politics in Colombia, 1780 – 1850*, University of Pittsburgh Press, 2000; Rogelio Perez Perdomo, *Latin American Lawyers: A historical introduction*, Stanford University Press, 2006; Renzo Honores, *Los abogados de la Lima colonial (1550 – 1650): formacion, vinculaciones y carrera profesional*, at Rodolfo Aguirre Salvador, *Carrera, linage*

Tormo Camallonga has reconstructed the history of the *Colegio de Abogados* of Valencia and its contradictions with the Ancien Regime. Unlike that of other countries, however, Cuban historiography has remained silent about this topic, and the history of Cuban colonial lawyers is still unexplored.

After centuries of colonial policies intended to prevent the increase of the number of lawyers, this work establishes that the relative spread of liberalism led to the growth of the legal profession throughout the early nineteenth century. In turn, this process increased lawyers' participation in Cuban social and political spheres. Facing this situation, after the Restoration in 1814, Ferdinand VII's policies on Cuban lawyers became more aggressive when the Crown identified numerous lawyers among those leading the independence movements throughout the rest of Latin America and the liberal constitutional government in Spain. In the case of Cuba, the King established a cap for the number of lawyers across the island, and authorized the establishment of the *Colegios de Abogados* and *Academias de Jurisprudencia*. The apparent purpose of this decision was to professionalize and regulate the practice of law, but it also intended to continue limiting the number of attorneys and controlling their professional activities. Royal decisions on lawyers were not always popular among the members of the legal profession, whose largest majority started manifesting contradictions and dissatisfaction with the Ancien Regime. Worried about their revolutionary potential, Spain tried to limit the number of legal professionals in Cuba around the time the rest of its colonies was fighting for their independence; but all of these

y patronazgo: clerigos y juristas en Nueva España, Chile y Perú, Universidad Nacional Autónoma de México, 2004; Alejandro Mayagoitia Hagelstein, *El ingreso al ilustre y real Colegio de Abogados de México: historia, derecho y genealogía*, Facultad de Derecho de la Universidad Panamericana, 1999; and Carlos Tormo Camallonga, *El Colegio de Abogados de Valencia: entre el Antiguo Regimen y el liberalism*, Universidad de Valencia, 2004.

attempts at regulation failed after several lawyers settled in Cuba to continue pursuing their careers within the Spanish bureaucracy, and motivated by the economic boom of the island's sugar industry. Before discussing such situations, let us look at the early roots of the Monarchy's concerns over lawyers.

The Issue of Too Many Lawyers in Colonial Cuba.

Shortly after the beginning of the colonization of the New World in 1492, Spain created the *Audiencias*, which sparked the necessity of legal professionals. The *Audiencia* was “a governing body with a fixed territorial jurisdiction,” that combined powers of government including legislative, executive, administrative and judicial functions, modeled after the Spanish court system.¹⁰³ Spain created the first *Audiencia* of the New World in Santo Domingo in 1508. Among its competences, it was in charge of policing the practice of law in a territory including the island of Cuba.¹⁰⁴ As a tribunal, the *Audiencia* administered justice in civil and criminal cases with appeal powers for decisions made by *Cabildos*, or municipal councils, and lower courts. The duties of the *Audiencia* included determining the credentials of the attorneys to represent the parties involved.¹⁰⁵ That was the first level of scrutiny for lawyers working overseas in the Spanish Empire, and it made the *Audiencia* a supervisor of the lawyers under its jurisdiction.

¹⁰³ Matthew C. Mirow, *Latin American Law: A History of Private Law and Institutions in Spanish America* (University of Texas Press, Austin, 2004), 22.

¹⁰⁴ Authors state different years for the establishment of this first *Audiencia*. For 1510, see Otto Schoenrich, *Santo Domingo: A country with a future*, (The Macmillan company, Dominican Republic, 1918), 336. For 1511 see Angel Rosenblat, *El español de América*, (Fundación Biblioteca Ayacucho, Caracas, Venezuela, 2002), 28; and Rogozinski, Jan, *A brief history of the Caribbean: from the Arawak and Carib to the Present* (Penguin Group, 2000), 48.

¹⁰⁵ Mirow, 23.

Mostly, trained lawyers composed the *Audiencia*, holding the positions of judges (*oidores*) or *fiscales* (representatives of the Crown's interest). The *Audiencia* also had *relators*, trained lawyers that drafted the decisions, and *escribanos*, who lacked formal legal education but eventually became informed on legal matters.¹⁰⁶ *Escribanos* drafted and recorded the daily legal paperwork of the inhabitants of the colony including wills, marriages, and letters of payments and transfer of property, among many other documents.¹⁰⁷ Additionally, there were *procuradores*, who were experts on procedural issues before the courts, including the handling of the forms and the moment to present the case in court.¹⁰⁸ In spite of the legal services that *escribanos* and *procuradores* provided, the stricter official control focused on lawyers.

Since the establishment of the justice system of Cuba, judges seating in the *Audiencia* evaluated law graduates who wanted to become attorneys. As the community of legal professionals grew in the Indies, the number of lawyers turned into a source of concern for the Spanish monarchs and the local authorities. Despite the initial restriction that the *Audiencia* could provide on the establishment of lawyers in Cuba, it seems that their number grew rapidly. It is uncertain how many lawyers started moving to the Indies, but it seems the number was higher than expected by the Crown and the settlers. Consequently, the Crown issued an order to the House of Trade (*Casa de Contratación*) forbidding lawyers "to travel to the Indies without a special license."¹⁰⁹ In parallel, some studies

¹⁰⁶ Pérez Perdomo, 21.

¹⁰⁷ Mirow, 41.

¹⁰⁸ Ibid. "While the *abogado* was the expert in the legal sources and rules, the *procurador* handled procedural matter before the court – when and how to present the document associated with litigation."

¹⁰⁹ Uribe Uran, *Honorable Lives*, 21.

mention that the first settlers of the island of Cuba complained in 1513, because too many lawyers were moving to this territory. The new *vecinos* considered those lawyers to be one of the key reasons why many of the inhabitants of the island “were already living in need, indebted or economically exhausted.”¹¹⁰

In addition to the growing number and apparent greed of lawyers, the behavior of magistrates was also a source of concern. Some *oidores*, for instance, became notorious for their corruption and unfair verdicts in the *Audiencia* of Santo Domingo. In the specific case of Cuba, negative comments on legal practitioners rose as early as 1517 and 1518, when witnesses declared: “judges had partiality for some villages, especially in Santiago,”¹¹¹ “[*licenciados*] have received many gifts,”¹¹² and “the *licenciados* were very dishonest with women, especially with the married ones.”¹¹³

In response to the concern of the *vecinos* of Cuba, the King of Spain, Charles V sent a Royal Order dated September 6th, 1521, to the Governor and Justices of the island establishing explicitly that *letrados* and *procuradores* would no longer be allowed to go to

¹¹⁰ Honores, 13. The word *vecino* was a Spanish legal term to designate heads of households and subjects to the Crown transplanted to the New World during the colonization. It was based on medieval notions of local citizenship as a mechanism to define rights and duties for the inhabitants of the villages or towns. For this term, see Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America*, New Haven, Yale University Press, 2003. In addition, trials and lawsuits became frequent in Spain during the late medieval period, a tradition that continued in America the Spanish settlers. On this regard, see Kagan, Richard L., *Lawsuits and Litigants in Castile, 1500-1700*, Chapel Hill: University of North Carolina Press, 1981. This monograph analyzes the existence of a legal tradition in the Iberian Peninsula based on the existence of a significant number of lawsuits filed in the Spanish courts during the fourteenth and fifteenth centuries.

¹¹¹ Genaro Rodríguez Morell, *Cartas de la Real Audiencia de Santo Domingo (1547 – 1575)* Vol. CXLIX (Editorial Búho, 2011), 13.

¹¹² *Ibid.*

¹¹³ *Ibid.*, 15

Cuba because of the high volume of lawsuits already taking place there.¹¹⁴ The enactment of this Royal Order took place at a very early stage of the colonization of Cuba when the population was still extremely scarce and, consequently, the number of lawyers in the island rather limited. Only two small towns existed in Cuba when *vecinos* sent the request to limit the entrance of attorneys to the island: Baracoa founded on August 15th, 1512, and Bayamo on November 5th, 1513.¹¹⁵ It is uncertain, though, how many *vecinos* complained and whether the number of lawsuits was really that significant. During the following years, Spain founded several municipalities in Cuba: Puerto Príncipe, Trinidad, Havana and Sancti Spiritus came into being in 1514, and Santiago in 1515. The population of Cuba was clearly increasing and so were the probabilities that lawyers were attempting to relocate to the island in expectation of clients and lawsuits. In his study on Havana during the sixteenth century, however, Alejandro de la Fuente does not include law within the list of professions commonly practiced in the city; probably a result of the limitation established earlier by the Spanish Crown.¹¹⁶ Regardless of the origins of the complaint, the Royal Order of September 6th, 1521, could be considered the first Spanish attempt to limit the growth of the legal profession in America and, specifically, in Cuba.

¹¹⁴ Hampe y Martínez, Teodoro and Renzo Honores, *Los abogados de Lima colonial (1550 – 1650): formación, vinculaciones y carrera profesional*, in Rodolfo Aguirre Salvador, *Carrera, linaje y patronazgo: clérigos y juristas en Nueva España, Chile y Perú, siglos XVI-XVIII*, (Mexico: Imprenta de Plaza y Valdés, Universidad Nacional Autónoma de México, 2004), 153.

¹¹⁵ For the establishment of the first villages in Cuba, see Louis Perez, *Cuba: Between reform and Revolution* (Oxford University Press, 1995), 26 - 27.

¹¹⁶ See Alejandro De la Fuente, *Havana and the Atlantic in the Sixteenth Century*, University of Carolina Press, Chapel Hill, 2008.



Map. 1. Earliest municipalities in Cuba.

This restriction did not effectively deter other Spanish legal professionals from relocating to Cuba such as *procuradores* and *escribanos*. Many *procuradores* moved to the island through the sixteenth century including, among others, Antonio Velazquez in 1516, Pánfilo de Nárvaez in 1518, Juan Mosquera in 1522, Rodrigo Durán in 1527 and Alonso Rodríguez de Arbor in 1580.¹¹⁷ A large number of *escribanos* also settled in Cuba during the sixteenth century such as Hernán Gutiérrez Calderón in 1522, Gonzalo Hernández de Medina in 1531, Cristóbal Torres in 1532, Francisco del Valle and Ochoa de Luyando in 1549, Bartolomé de Morales in 1576, Francisco de Poyo Vallejo in 1585, and Gerónimo Vázquez in 1585, among others.¹¹⁸ In 1533 alone, for example, the Crown

¹¹⁷ AGI INDIFERENTE 419, L6, F592R. Nota de Despacho; Indiferente 419, L7, F788 V (2). Nota de Despacho a Pánfilo de Nárvaez, procurador de la Isla de Cuba; Indiferente 420 L9. Justicia a Juan Mosquera sobre el salario de procurador de Cuba; Indiferente 421 L12 F72V; and Indiferente 2060 N1 F151V (1). Alonso Rodríguez de Arbor; Indiferente 420 L9 F11V, Merced a Juan Mosquera, procurador de Cuba; Indiferente 420 L9 F129R.

¹¹⁸ AGI Santo Domingo 28, N1 Expediente de confirmación del oficio de escribano; Santo Domingo 1121, L1, F.98V Gonzalo Hernández de Medina, escribano de los reinos; Santo Domingo 1121, L1, F.92V-93R Orden para que se examine al escribano Gonzalo Hernández; Santo Domingo 1121, L1, F97V- 98V Cristóbal Torres, escribano público de Santiago de Cuba; Santo Domingo 28, N16 Expediente de confirmación del oficio de escribano; Santo Domingo 29, N9 Expediente de confirmación del oficio de escribano; Santo Domingo 30, N6 Expediente de confirmación del oficio de escribano; Santo Domingo 29, N29 Expediente de confirmación del oficio de escribano.

authorized at least six *escribanos* to relocate to Cuba: Fernando Gutiérrez Calderón, Pedro de Mendano, Pero Marín, Francisco de Alcocér, Gonzalo Díaz de Piñera Espinosa, and Francisco Nuñez.¹¹⁹ Since *procuradores* and *escribanos* provided a fair amount of legal services, a community of legal professionals started taking up residence in Cuba. To be sure, a very limited number of practicing lawyers could be counted among its members.

In addition to the forbiddance for legal professionals to establish themselves on the island, the requirements to practice as a lawyer were difficult to fulfill for impoverished or recently arrived settlers throughout the sixteenth century. Candidates had to study law in a Spanish university and, later, complete an internship in a law firm for at least four years. Future lawyers had to spend this time in Spain, or in Mexico after the establishment of the *Audiencia* of this city in 1527. The completion of the entire process, including studies and internship, usually took a period of about ten years, a long period that most of the inhabitants of Cuba were unable to afford economically.¹²⁰

Spanish legislation also contained moral and social requirements to become a lawyer. The *Siete Partidas* forbade the practice of law to “women, the insane, the absent-minded, the blind of both eyes, the deaf, the prodigal, and those indicted for adultery, treason, homicide, or another offense of similar gravity, and those who fought wild beasts

¹¹⁹ AGI Santo Domingo 1121, L1, F.130V-131R Examen de escribano público a Fernando Gutierrez Calderón; Santo Domingo 1121, L1, F.146V-147R Examen de escribano público a Pedro de Mendano; Santo Domingo 1121, L1, F.167V-168R Examen de escribano público a Pero Marín; Santo Domingo 1121, L1, F.167R-167V Francisco de Alcocer, escribano y notario público; Santo Domingo 1121, L1, F.154V-156R Gonzalo Díaz de Espinosa, escribano público de la villa de San Salvador; Santo Domingo 28, N2 Expediente de confirmación del oficio de escribano.

¹²⁰ Zamora y Coronado, José María, *Apéndice al Registro de Legislación Ultramarina*, Vol. 1, (Imp. del Gobierno y Capitanía General, Spain, 1839), 343. “(...) no a todos [los candidatos] era dado residir diez años en la [Audiencia] de México (...).”

for a price.”¹²¹ This law also forbade “heretics, their children, and their grandchildren, included reconciled heretics.”¹²² All in all, the practice of law ended up being restricted mostly to *peninsulares*. Consequently, it is fair to say that the number of lawyers remained low in Cuba, although the colony and its population kept growing.

The continuing growth of the population in the island and restrictions to the presence of lawyers in its midst did not vary significantly over the following century. By 1608, Cuba had reached an approximate population of 20,000 inhabitants, and the city of Havana recorded 1,200 *vecinos* in 1620.¹²³ Still a century later, a Royal Order dated April 1st, 1727, determined that only four lawyers and a *teniente general letrado* working in Havana were enough to maintain peace and justice in the city.¹²⁴ Contrary to such claim, *vecinos* of Cuba usually lacked attorneys to assist them in legal matters. The need for legal professionals in the island kept mounting. The scarcity of legal professionals eventually forced the *Audiencia* of Santo Domingo to receive into the profession applicants without all the required qualifications, lacking knowledge, practical experience, or both. Many times the *Audiencia* granted license to practice to incompetent individuals, which resulted in the “moral and economic harm” of the *vecinos* of the island.¹²⁵ This situation created an imperative need for professional lawyers in Cuba from as early as the eighteenth century.

¹²¹ Pérez Perdomo, 28.

¹²² *Ibid.*

¹²³ Pérez, Louis A. Jr., *Cuba: Between Reform and Revolution*, 38; De la Fuente, *Havana and the Atlantic in the Sixteenth Century*, 223.

¹²⁴ Zamora y Coronado, *Apéndice*, 343. “Ahora 112 años la Habana solo contaba con un teniente general letrado y cuatro abogados. Se deduce de la Real Cedula de Iro de Abril de 1727, en que se expresa que conservándose con ellos la ciudad en paz y justicia, y manteniéndose en estimación, sin aumentar el número.”

¹²⁵ *Ibid.* “(...) se había introducido el abuso de pasar a Santo Domingo a recibirse sujetos iliteratos, sin la suficiencia necesaria y requisitos de tiempo, de cursos y practica de cuatro años, que prefinen las leyes, de

In 1728, as part of the Bourbon reforms, Spain founded the University of Havana. The University included studies of Civil and Canon Law, following the Spanish model and that of other Spanish American universities.¹²⁶ Thereafter, there was access to receive legal training in Cuba. Although the number of people attending these classrooms was still significantly limited, the opportunity to attend law school favored the possibility to increase the number of lawyers on the island. As a result, after a century of operation of the University, there were about 400 graduates, most of them in Civil and Canon Law.¹²⁷ Upon graduation, many of them pursued different careers, rather than just becoming attorneys at law.¹²⁸ Many joined the priesthood. Some others would become *oidores*, *fiscales*, public functionaries of any kind, or advisors to authorities of any level, especially municipal ones. The Spanish Crown, however, ratified the previous requirements to become a lawyer with the Royal Orders dated March 16th, 1730, and December 29th, 1739, focusing on two aspects: receiving legal education in a University and a period of practical experience or internship.¹²⁹ Hence, the requirements to become a lawyer remained difficult to most of the candidates, the number of which seems to have continued being very low.

Manifestations of the further need for lawyers continued showing. Bernardo Minvielle and José Suárez Piloto, for instance, expressed in a motion for cause filed in Santiago de

que se seguían ruinas en la honra y caudales de los vecino; sobre lo cual quería S.M. que el gobierno, justicia, consejo y ayuntamiento, le instruyesen con toda especificación.”

¹²⁶ Pérez Perdomo, 23.

¹²⁷ *Anuario Universitario*. Universidad de la Habana, 1974, 15.

¹²⁸ Pérez Perdomo, 31.

¹²⁹ Zamora, *Apéndice*, 343. “(...) la Real Cedula de 29 de Diciembre de 1739 se contrae a la de 16 de Marzo de 1730, para repartir la prohibición de que se reciban abogados, sin preceder los cursos y practicas de estatuto.”

Cuba in 1767 their struggles to find legal representation because of the scarcity of lawyers in the city. They also referred to the corruption that existed among the community of legal advisors, including the case of Tomás José Creagh, one of the main political figures of the city of Santiago de Cuba during this century, accused of promoting bribery and fraud in the judiciary.¹³⁰ Despite the apparent need for lawyers, the *Audiencia* of Santo Domingo rejected or delayed the approvals of applications of candidates who wanted to practice law in the island. In 1768, for example, the *Audiencia* postponed for four years Don Diego Félix de Armenteros' request for authorization to practice as a lawyer because of the alleged "excessive number of lawyers in the island [of Cuba]."¹³¹ Notwithstanding the Spanish official policy, the number of lawyers on the island started growing under the period of Enlightened Despotism, a regime that favored the liberal arts and supported intellectual movements during the eighteenth century. The available evidence shows that the city of Havana reported 35 lawyers in 1768, including 9 canonical and 26 secular.¹³² This number seemed still low for a population of 70,000 inhabitants, yet the colonial authorities took further actions to prevent the growth of the number of lawyers.

One of the first decisions the Bourbon Monarchy took consisted in keeping canon lawyers away from ordinary litigation. On March 12th, 1769, the Spanish Crown issued new legislation forbidding ecclesiastical lawyers to litigate on secular issues. This Royal

¹³⁰ ANC, Correspondencia de los Capitanes Generales, Legajo 21, Orden 60, Copia de representación remitiendo autos de causa seguida ante Tribunal en Santiago de Cuba.

¹³¹ Zamora, *Apéndice*, 343. "(...) por graduarse de excesivo [el número de abogados en la Habana] al recibirse de abogado D. Diego Felix de Armenteros, no obstante, que acreditó su conocida suficiencia, e impuso la Audiencia de Santo Domingo la calidad de no asesorar en cuatro años, de que dimanó su ocurso al trono, para que se le dispensase esa restricción."

¹³² Ibid. "En 1768, ya había crecido el número [de abogados] hasta 35, de ellos 9 eclesiásticos (...)."

Order basically reiterated regulations already contained in Title 12 Book 1 of the Compilation of Indies, Title 16 Book 2 of the Laws of Castile, and Title 5 Book 22 of the *Novísima Compilación*. Ecclesiastical lawyers, thereafter, found their practice limited to their “*iglesias, deudos, pobres y pleitos propios*.”¹³³ The regulation of 1769 further reduced the access to lawyers in a moment when inhabitants of Havana were known to look for legal advice outside of the capital.¹³⁴

Following legislation, the Royal Order on November 20th, 1784, increased the restriction to legal practice in Cuba, this time based on the candidates’ place of birth. This law included two prohibitions. First, it forbade professors of jurisprudence who were Cuban born or residents from acting as lawyers. Second, this law prevented any candidate that was born in the island from becoming a lawyer “until the excessive number of lawyers working in the island” reduced itself.¹³⁵ This legislation claimed to reduce the competition among “the large number of lawyers working in the city.”¹³⁶ Its major result, however, was that only previously authorized lawyers and mostly *peninsulares* could practice in that capacity on the island thereafter.

¹³³ Zamora, 343 – 344 in reference to 1 Tit. 12 Lib. 1 de Indias y 15 Lit. 16 Lib. 2 de Castilla (Ley 5 Lit. 22 Lib. 5 de la Novísima) acerca de no abogar los eclesiásticos más que por sus iglesias, deudos, pobres, y pleitos propios.

¹³⁴ Ibid, 343. “ (...) porque en realidad no debiendo ejercer los eclesiásticos sino en determinados casos de ley, venían a quedar hábiles solo 26 abogado, que no eran muchos para una ciudad como la Habana compuesta de varios juzgados, y a donde se ocurría en consulta de los otros lugares del interior; descendiendo en consecuencia Real Cedula de 12 de Marzo de 1769 en corroboración de lo mandado por las leyes.”

¹³⁵ Ibid, 344. “La Real Orden de 20 de Noviembre de 1784 fue la que prohibió el recibimiento de naturales de la isla hasta que se redujese el excesivo número de abogados.”

¹³⁶ ANC, Reales Ordenes y Cédulas, Legajo 24, Orden 63, Carta pidiendo informe sobre el número de abogados que existen y ejercen en el distrito de Santiago de Cuba.

This restrictive strategy of the Spanish Crown could not hide the actual need for lawyers in the island. To fill the lack of lawyers, the *Audiencia* of Santo Domingo occasionally allowed students of law to act as trial attorneys. In 1785, for example, the *Audiencia* authorized Francisco de Arango y Parreño, only twenty years old, to represent his father in a lawsuit before finishing his legal training. Arango graduated from the Academy of Jurisprudence of Santa Barbara of Madrid in 1787, but at the time he represented his father he was not eligible yet to plea in court because he was missing both of the key requirements: the completion of his education as a lawyer and the required internship in an open law firm.¹³⁷ On July 13th, 1793, another law student also worked as a lawyer, exceptionally, after four years of practice in an established law firm without having graduated from the school of law.¹³⁸ This kind of solution was rare and did not resolve the lack of lawyers in the colony, the number of which kept growing slowly.

Through that period, the Spanish Monarchy showed constant preoccupation with the success of the policies limiting legal practice in Cuba. In 1788, for example, Charles III inquired to local authorities of the city of Santiago de Cuba about the success of his policy to keep low the number of lawyers in the island.¹³⁹ Although the response of the city's mayor is uncertain, with the Royal Decree dated March 29th, 1789 the King ratified the

¹³⁷ Whatley Pierson, William, "Francisco de Arango y Parreño," *The Hispanic American Historical Review*, Vol. 16, No. 4, (Nov., 1936), pp. 451 – 478, 456.

¹³⁸ Zamora, 344. "(...) y se cita en otra de 13 de Julio de 1793, que permite la recepcion, de un Bachiller por haber cumplido sus cuatro años de práctica antes de la expedición de aquella, previo el cotejo de su título de Bachiller con los asientos de la Universidad." The actual name of this Bachelor remains unknown, although his representation was registered as one of the exceptions authorized to the applications to practice as a lawyer in lieu of the short number of attorneys available in Cuba at that time.

¹³⁹ ANC, Reales Ordenes y Cédulas, Legajo 24, Orden 63, Carta pidiendo informe sobre el número de abogados que existen y ejercen en el distrito de Santiago de Cuba.

previous prohibition that Cuban born students of law could become lawyers on the island.¹⁴⁰ The colonial policies started showing impact when in the year 1792, there appeared to be 85 lawyers in Havana, and 73 lawyers in 1795, combining 5 ecclesiastical and 68 secular.¹⁴¹ The number of lawyers, however, still contrasted with the official policies, when the governor of Havana declared in 1795 that 15 or 20 lawyers would be sufficient for the needs of the capital.¹⁴²

The concern about the “excessive number of lawyers” was not exclusive to the case of Cuba. Spain made similar claims regarding to the concentration of lawyers through the Empire, including Spanish American territories such as Rio la Plata, Peru, Mexico and Colombia. As Uribe-Urán cites, Fiscal Moreno y Escandón questioned loosening of the requirements to become a law student during the 1770s foreseeing a glut of legal professionals for a limited job market in New Grenade.¹⁴³ Uribe also argues that few years later, the number of lawyers proved to be rather scarce, and he illustrates his analysis with the opening of bureaucratic positions within the republican government in Colombia.

¹⁴⁰ Zamora, 351. Excerpt of the letter from Ferdinand VII dated Aranjuez, May 22, 1832: “Examinado todo en mi Consejo de las Indias con presencia de lo expuesto por mi fiscal, me hizo presente su dictámen en consulta de 4 de Agosto último y, conformándome con él, he tenido a bien alzar desde luego la prohibición impuesta por las Reales Órdenes de 1784 y 1789, y dejar en absoluta libertad a los cursantes de Derecho de la isla de Cuba para que puedan recibirse de abogados en su Audiencia, previos los requisitos y exámenes determinados por las leyes, y con tal de que después de obtenido el grado de Bachiller, tengan seis años de práctica, y los dos de ellos con precisa asistencia a la Academia que se establecerá en la Habana, o a la ya establecida en Puerto Príncipe.”

¹⁴¹ *Calendario Manual y Guía de Forasteros de la Isla de Cuba para el año de 1795*, (Imprenta de la Capitanía General, Havana, 1795), 54 – 57; and Pérez Perdomo, 33.

¹⁴² Pérez Perdomo, 33. The author cites in his work an article of Jaime Del Arenal Fenochio mentioning that the Governor of Havana in 1792 stated that 15 or 20 lawyers would be enough for the city. On this regard, see Jaime Del Arenal Fenochio, *Los Abogados en México y una polémica centenaria, 1784 – 1847* (Revista de Investigaciones Jurídicas, Escuela Libre de Derecho, México, 1980), 541.

¹⁴³ Victor M. Uribe, *Colonial Lawyers, Republican Lawyers, and the Administration of Justice in Spanish America*, in Eduardo Zimmermann, *Judicial Institutions in Nineteenth Century Latin America* (Institute of Latin American Studies, University of London, 1999), 25.

Consequently, Uribe concluded that the idea of the excessive number of lawyers was a “politically-motivated royal myth” to preserve a limited access to official and judicial positions to local traditional elites. Apparently, Spanish colonialism applied the same policy to both continental and insular America. Cuba, however, had one of the higher concentration of lawyers per capita in Spanish America when there were approximately just 85 lawyers in Havana during the 1790s, for a population of the island of 272,300. This statistics contrasted with Río de la Plata, for example, with 98 lawyers during the same period for a population of 440,000; or Mexico City with 175 lawyers for a population of 5,837,000.¹⁴⁴

The work of *procuradores* continued being an alternative to the scarce number of lawyers in Cuba. While it was difficult to obtain legal advice and representation from lawyers, *procuradores* offered their services and assisted the inhabitants of the island with the filing of legal documents and related procedures. Their number, however, was also limited. The *Guías de Forasteros*, for example, only listed nine *procuradores* in Havana by 1795.¹⁴⁵ In the practice of their profession, *procuradores* competed with lawyers and *papelistas*, or legal agents, while also facing the corruption present in Cuban courts. On May 13th, 1797, for instance, Hilarión Freyre, a *procurador* from Santiago de Cuba, wrote to King Charles IV describing how he had suffered prison after denouncing a *papelista* who was wrongfully representing the other party in a case he was involved with. Freyre

¹⁴⁴ See a comparative chart including lawyers per capita and demographic information from Mexico City, Rio la Plata, Colombia, or Peru. Uribe, *Colonial Lawyers*, 32.

¹⁴⁵ *Calendario Manual y Guía de Forasteros de la Isla de Cuba para el año de 1795*, (Imprenta de la Capitanía General, Havana, 1795), 60. The *procuradores* were Juan García, Manuel Montiel, Juan Hernández, Francisco Tariche, Luis Espiritu, Francisco Ribera, Tomás González, Joseph Bosques, and Ambrosio Acosta.

also complained about the official who examined his cause, *Licenciado* Félix Rodríguez, who had a reputation of being corrupt and representing clients under the signature of other lawyer, Baltazar Muñoz.¹⁴⁶ In the same letter Freyre affirmed that more lawyers were necessary in the city, and that the scarcity of lawyers was the reason why clients required the hiring of *procuradores*.

The role of *procuradores* was not only limited to private, but also public representation. The local councils or *cabildos* had employed a *procurador general*, or legal counselor for the city, since the sixteenth century. In 1749, Captain Dionisio de Berroa added to his title the word *síndico*, affirming the social role of this position.¹⁴⁷ After 1789, this public functionary started representing slaves or the emancipated.¹⁴⁸ In some localities with indigenous population, there was a *protector de indios*, who fulfilled similar duties.¹⁴⁹ As those *procuradores* started requiring legal knowledge, mostly legal trained individuals were appointed to this office, which included recently graduates from law schools that wanted to begin a career as functionaries.¹⁵⁰ By the 1840s, none of the *síndicos*

¹⁴⁶ AGI ESTADO 18, N. 57, Letter dated May 13th, 1797 from Hilarión Freyre, procurador in Santiago de Cuba, to the King Charles IV regarding to the interference of lawyers and picapleitos in the practice of justice, as well as the existence of corruption in the judicial system of the city.

¹⁴⁷ Rafael Angel Cowley, *Los Tres Primeros Historiadores de la Isla de Cuba*, Vol. 1 (Editorial Pego, 1876), 243. The word syndic means person that a group of individuals or community elect to represent their interests, mostly social or economic.

¹⁴⁸ José Luis Belmonte, *Utilizando las armas que están a su alcance: esclavos contra amos indígenas en los tribunales de justicia de Trujillo del Perú a fines del siglo XVIII*, in Sigfrido Vázquez Cienfuegos, *Poder y Conflictividad Social en América Latina* (Charles University in Prague, 2017), 57.

¹⁴⁹ See David Sartorius, *Ever Faithful: Race, Loyalty, and the Ends of Empire in Spanish Cuba* (Duke University Press, 2013), 36 – 38. It refers to Pedro Alcántara, who was a lawyer, as protector de indios during the 1810s.

¹⁵⁰ Cowley, 243. In this list of procuradores, appear Bernardo Echavarría in 1833, José Guerrero in 1835, and José Romualdo de Zamora in 1837. Those years are very close to the date of their graduation, which indicated that at least during that period recently graduated held this office.

procuradores lasted in office more than two terms, and they probably just used this seat to boost their careers into higher ranking positions.¹⁵¹ Yet, this was a mechanism to make legal services and justice accessible to everyone in Spanish America, beyond the limitations and costs of the professional services of lawyers.

Increase of the Number of Lawyers in Cuba in Early Nineteenth Century.

The nineteenth century brought favorable conditions for the increase of the number of lawyers in Cuba. The main reason was the growth of the Cuban economy associated to sugar production. The Haitian Revolution during the last decade of the eighteenth century caused the destruction of the sugar industry of this colony and Cuba became the new main producer of sugar in the world. In consequence, the population of Cuba started growing rapidly, reaching more than one million inhabitants by 1846.¹⁵² With the increase of the population, local markets expanded and more villages and cities developed across the island. At the same time, Cuba became an essential possession within the Spanish Empire not only because of its central position in the Caribbean Sea, but also as an important producer of other tropical staples besides sugar, in particular tobacco and coffee.¹⁵³ The expansion of commercial and mercantile relations in colonial Cuba created the conditions

¹⁵¹ Cowley, 246 – 249. See for example, application for Regidor of Isidro Arteaga Cervantes, *síndico procurador* between 1816 and 1817, AGI ULTRAMAR 29 Exp. 28; and application for Counselor of War of Francisco Filomeno Ponce de León, *síndico procurador* between 1818 and 1819, AGI ULTRAMAR 162 Exp. 63.

¹⁵² Pérez Murillo, María Dolores, *Aspectos demográficos y sociales de la isla de Cuba en la primera mitad del siglo XIX*, (Servicio de publicaciones de la Universidad de Cádiz, Cádiz, Spain, 1988) 235 - 242.

¹⁵³ On the economic history of Cuba and the importance of the tobacco see Charlotte Cosner, *The Golden Leaf: How tobacco shaped Cuba and the Atlantic World*, Vanderbilt University Press, 2015; and for the coffee see Clifford L. Staten, *The History of Cuba*, 2nd Ed. (ABC-CLIO, Santa Barbara, California, 2015), 25. In this book Staten explains that Cuba exported 20,000 tons of coffee in 1827.

for the filing of a higher number of property and trade related claims and lawsuits. Thus, the island required more lawyers to handle the mounting number of cases.

A second factor that favored the increase of lawyers on the island was the establishment of an *Audiencia* on Cuban soil. The *Audiencia* remained in Santo Domingo until the signature of the Treaty of Basel in 1795, when Spain lost control over the Eastern portion of the island of Hispaniola. This situation forced Spain to relocate the *Audiencia* to the Cuban town of Puerto Príncipe in 1800.¹⁵⁴ The *Audiencia* of Puerto Príncipe preserved the structure and duties of the *Audiencia* of Santo Domingo including control over lawyers and their approval and authorization to practice.¹⁵⁵

A third cause for the development of the community of legal professionals in Cuba was the migration of lawyers from Hispaniola and other Spanish territories in America. In the wave of the Haitian Revolution of 1791 and its aftermath, lawyers from Santo Domingo fled to Cuba and settled across the island such as the members of the family Heredia: José Ignacio de Heredia Campuzano and José Francisco Heredia Mieses.¹⁵⁶ This migration not only included attorneys but also legal professionals of any kind such as Domingo Enrique Díaz Páez, *justicia mayor*, Felipe Dávila Fernández de Castro, *Intendente General*, and Santiago Márquez Loysel, *escribano* of the Chamber of the *Audiencia* of Santo

¹⁵⁴ ANC, Reales Ordenes y Cédulas, Legajo 9, Exp. 150, Royal Order dated April 13th, 1799, ordering the relocation of the *Audiencia* of Santo Domingo to Puerto Príncipe.

¹⁵⁵ ANC, Fondo Gobierno Superior Civil, Legajo 327, Orden 11139, File for the establishment of a *Colegio* and an *Academia de Jurisprudencia* in 1820.

¹⁵⁶ *Guías de Forasteros de la Isla de Cuba*, from 1818 until 1848, including the name of this attorney, its origin, year of establishment, and cities of practice: Havana until 1830, and Matanzas thereafter.

Domingo.¹⁵⁷ Most of them, however, faced the restrictions to work as attorneys on the island of Cuba and looked for professional opportunities within the public system.

Almost every lawyer that moved from Santo Domingo to Cuba worked, at least temporarily, in the public sector. Pablo Arroyo Pichardo, for example, moved to Cuba after the Haitian Revolution and accepted a position as interim collector of the lottery in Puerto Príncipe in 1812, while applying to become Administrator of Rents of Santa Clara.¹⁵⁸ That was also the case of Antonio Vicente de Faura, a lawyer in Santo Domingo since 1788, who relocated to Havana in 1817 and acted as Probate Judge in Bayamo during the 1830s.¹⁵⁹

In some cases, lawyers that held public positions in Santo Domingo continued pursuing their career in Cuba. Felipe Dávila Fernández de Castro, for example, was a member of the administration of Santo Domingo during the early 1820s, and applied for the *Tribunal de Cuentas* in Havana in 1824. Dávila was already a member of the administration on the island of Cuba by 1829, becoming the *Intendente* of Santiago de Cuba in 1832 where he remained until 1835.¹⁶⁰ Santiago Márquez Loysel, on the other hand, was a former

¹⁵⁷ AHN ULTRAMAR 1611, Exp. 22 File containing the application of Domingo Diaz Paez for a position in 1833 including his record of merits that mentions that he held the position of *justicia mayor* in Santo Domingo before he migrated to the city of Santiago de Cuba after the Haitian Revolution; AHN ULTRAMAR 1119, Exp. 16 File containing the application of Felipe Davila Fernandez de Castro for an administrative position in Puerto Rico that includes his relation of merits; AGI ULTRAMAR 151 N. 14 File containing the application of Santiago Marquez, scribe of the Audiencia in Santo Domingo to become Treasurer or Administrator of Rents in Santiago de Cuba in 1805.

¹⁵⁸ AGI ULTRAMAR 153 N 59 File formed for the application of Pablo Arroyo Pichardo, interim collector of lottery in Puerto Principe, to the position of collector of rents in Santa Clara after the resignation of Mariano de Vargas in 1812; and AGI ULTRAMAR, 82 N 61 containing the service records of Pablo Arroyo Pichardo.

¹⁵⁹ AHN CONSEJOS 31286 Exp. 16 File containing the application of Antonio Vicente de Faura to become a lawyer in the island of Santo Domingo in 1788; Guías de Forasteros between 1818 ad 1850 that shows Antonio Vicente de Faura as lawyer in Havana and also *juez general de bienes difuntos* in Bayamo in 1832.

¹⁶⁰ AHN ULTRAMAR 1119, Exp. 16 File containing the application of Felipe Davila Fernandez de Castro for an administrative position in Puerto Rico that includes his relation of merits; Guia de Forasteros de la Isla

escribano in the *Audiencia* of Santo Domingo and provides even a more convincing example of the intentions of these legal professionals to remain within the public sector. Márquez, having determined to leave Santo Domingo for Cuba, applied for the positions of *escribano* of the Board of the Royal Treasury in Havana in 1803, *escribano* of the Appellations Court of the Royal Treasury in Havana in 1804, *Teniente Gobernador* of the *Audiencia* in Puerto Príncipe, and Treasurer or Administrator of Rents in Santiago de Cuba in 1805. Apparently, Márquez obtained the position in Santiago de Cuba since he established himself in this city thereafter.¹⁶¹

Some lawyers experienced more than one migration. Juan Arredondo Santelices, for instance, left Santo Domingo for Cuba in 1800 becoming Auditor of War in Matanzas by 1809. In 1814, Arredondo moved to Eastern Florida to assume the position of War Auditor in that territory until 1822 when, upon the end of the Spanish control over those lands, he returned to Matanzas as judge of first instance. Years later, in 1836, Arredondo applied for “any other judicial position in the island of Cuba,” claiming to be “a true Spanish” and loyal to the Crown. The application, however, was declined when the Captain General

de Cuba, 1832 – 1835. Among other positions, Felipe Davila Fernandez de Castro was interim *Intendente* in Santo Domingo between 1820 and 1822, *Contador de las Cajas Reales* in 1824 until his wife requested on his behalf the position of *Contador Mayor del Tribunal de Cuentas* in Havana. Between 1829 and 1832, Davila was the *Intendente* of the Secretary of Government and Internal Revenues of Cuba and with the Secretary of the Council of Indies. Davila became *Intendente* of Santiago de Cuba in 1833. Posteriorly, he will continue his public career, with special participation as Spanish official in the reoccupation of Santo Domingo during the 1860s.

¹⁶¹ AGI ULTRAMAR 151 N. 14 File containing the application of Santiago Marquez, scribe of the *Audiencia* in Santo Domingo to become Treasurer or Administrator of Rents in Santiago de Cuba in 1805; AGI ULTRAMAR 122 N. 46 File containing the application of Santiago Marquez, scribe of the *Audiencia* in Santo Domingo to become scribe of the *Juzgado de Apelaciones de la Real Hacienda* in Havana in 1804; AGI ULTRAMAR 163 N. 18 File containing the application of Santiago Marquez, scribe of the *Audiencia* in Santo Domingo to become scribe of the *Junta Superior Directiva de la Real Hacienda* in Havana in 1803; and Guías de Forasteros de la Siempre Fiel Isla de Cuba between 1832 and 1839 that shows this lawyer established in this city during those years.

Miguel Tacón concluded that he was full of debts and dishonored. The Interim Regent of the *Audiencia*, Manuel Remón Zarco del Valle, in turn abstained to report on Arredondo for lack of information about the applicant, on August 28th, 1837. By that time, Arredondo was impoverished and unable to support his sixteen children and wife, Eduarda González Morejón, forcing him to keep applying for positions within the judiciary.¹⁶²

Another case of a lawyer who experienced multiple relocations within the Spanish Caribbean, including Cuba, was José Francisco Heredia Mieses, father of the Cuban poet José María Heredia.¹⁶³ In 1801, Heredia left Santo Domingo for Caracas where he established himself until 1803, when he relocated to Santiago de Cuba as probate judge (*juez de bienes difuntos*). In 1806, Heredia was appointed as assessor of *intendencia* in West Florida, moving to Pensacola that year. The family, however, did not adapt well to the new lands; and Heredia mentioned that: “there is nothing here but sand and misery.” Therefore, Heredia requested a new relocation and moved temporarily to Havana in 1810, until he continued onto Caracas, now as *oidor* of the *Audiencia* of that city. The revolutionary outbreak in Venezuela forbade him to arrive in Caracas, and he was rather sent to Maracaibo and finally again to Santo Domingo. In 1817, Heredia abandoned Hispaniola again, this time for Mexico City as *alcalde de crimen*, where he was assassinated in 1820.¹⁶⁴ The cases of Arredondo and Heredia not only exemplified the

¹⁶² AHN ULTRAMAR 1620, Exp. 11. File formed upon request of Juan Arredondo Santelices, former Auditor of War in East Florida, of any judicial position in the island of Cuba. This file includes his record of merits and his application including personal and professional information of the applicant.

¹⁶³ José María Heredia is the liberal poet mentioned two more times in this chapter: as owner of a private library, and also as member of a liberal conspiracy in 1823.

¹⁶⁴ José María Heredia and Angel I. Augier, *Niágara y Otros Textos: Poesía y Prosas Selectas* (Fundación Biblioteca Ayacucho, 1990), 267 – 268; and José F. Buscaglia-Salgado, *Undoing Empire: Race and Nation in the Mulatto Caribbean*, (University of Minnesota Press, 2003), 314.

migration of lawyers within Spanish America, but also how legal professionals found in public positions a more stable and profitable practice of the law than in private practice.

Some of those migrant families of lawyers who settled in Cuba during the early nineteenth century brought illustrious creoles who triggered intellectual movements on the island. That was the case of Antonio del Monte Tejada. He was born in Santo Domingo on September 29th, 1783, and, upon graduation from the School of Law in the University of Santo Domingo in 1800, fled to Cuba with his family in 1801, the same year that Toussaint Louverture unified Hispaniola.¹⁶⁵ He established himself in Havana, where was able to start practicing as a lawyer again in 1812 to eventually become one of the most prominent jurists and Dean of the lawyers in the capital between 1848 and 1852.¹⁶⁶ Also a historian, Del Monte published in 1852 a “History of the Dominican Republic,” that is still a reference for contemporary historiography and considered one of the best accounts on Dominican history.¹⁶⁷

Lawyers from other territories also migrated to Cuba during the first decades of the nineteenth century. That was the case of Joaquín Ribera from Popayán, *relator* from the *Audiencia* of Santa Fe in Nueva Granada who migrated to Cuba after Colombian independence and requested support from the administration of the island in 1822.¹⁶⁸ He

¹⁶⁵ Franklin J. Franco, *Blacks, Mulattos, and the Dominican Nation*, Routledge, 2015.

¹⁶⁶ *Guías de Forasteros de la Siempre Fiel Isla de Cuba, 1812 - 1852*. They show Antonio del Monte Tejada as a lawyer listed in Havana, and between 1848 and 1852, Dean of the lawyers of this city.

¹⁶⁷ For a study of Antonio del Monte as historian, and comments about his work, see Roberto Cassá, *Historiography of the Dominican Republic*, in B.W. Higman, *General History of the Caribbean: Methodology and Historiography of the Caribbean*, Vol. VI, (UNESCO Publishing, 1999), 391.

¹⁶⁸ AGI ULTRAMAR 137 N 26 Complaint dated August 16th, 1822, issued by Joaquin Ribera against the Intendente of the island of Cuba because he did not support him at the moment he relocated to the island.

first settled in Santiago de Cuba, and then moved to the city of Holguín in 1826.¹⁶⁹ As other migrants from Santo Domingo, Ribera tried to continue his professional career in Cuba and applied for positions in the judicial system on the island between 1824 and 1828.¹⁷⁰ In the case of Ribera, however, it seems that his intentions to continue his career were unsuccessful, may have been the reason why he claimed a pension from the Cuban administration in 1828.¹⁷¹

There were also many *peninsulares* who established themselves on the island taking advantage of the restriction to practice as lawyers for those who were born in Cuba. That was the situation of Nicolás Jacinto de Acea. This lawyer, natural from Santa Marta de Ortigueira in Galicia, established in Güines in 1820 and, after a decade, he had become one of the *notables* of this town possessing estates and occupying public positions within the local government. For that reason, he was appointed a commissioner of the town to Madrid in June of 1831 to congratulate Queen María Cristina for giving birth to the princess.¹⁷² Upon conclusion of his commission on August 8th, Acea returned to the island, but now also in the capacity of attorney of the Galician Vicente Romero Guinzo who entrusted him

¹⁶⁹ *Guías de Forasteros de la Siempre Fiel Isla de Cuba*, years from 1824 to 1830.

¹⁷⁰ AGI ULTRAMAR 43 N 3 File formed after Joaquín Ribera's request for any position of oidor in the island of Cuba dated February 14th, 1828.

¹⁷¹ AGI ULTRAMAR 143 N 24 File containing an extract of Royal Order dated June 1st, 1828, to the *Intendencia* of Cuba in reference to Joaquin Ribera's request for a pension.

¹⁷² AGI ULTRAMAR 359, N. 63 File of Nicolas Jacinto Acea in Spain where he requested authorization to return to the island of Cuba after being sent as a representative of the local government to felicitate the Queen Maria Cristina for the birth of the princess Isabel. In letter to the Royal Council dated June 8th, 1831, Acea explains that he has businesses and properties to attend in the island requiring his immediate return.

to collect from his debtors in Havana.¹⁷³ Acea's case proves, then, that *peninsular* lawyers had clients in both Cuba and Spain, and that they participated equally of private and public matters either on the island or the peninsula.

Other *peninsular* lawyers just stayed in Cuba temporarily, presumably to boost their careers in a less competitive environment and with the privilege that Spanish born lawyers had over creoles. One of those examples was Francisco de Paula Pérez Rangel. Born in Murcia, Pérez Rangel graduated from the Seminario San Fulgencio of that Spanish town in 1801 and requested authorization to practice as an attorney.¹⁷⁴ By 1822, he established himself in Havana and practiced in that city at least until 1828.¹⁷⁵ Shortly after, Pérez Rangel returned to Spain where he was appointed judge in Albacete until 1849.¹⁷⁶ Mobility within the Spanish Empire, thus, was one the reasons causing the increase of legal professionals in Cuba, while a local creole community continued growing and promoting policies of change.

Creole Lawyers and the Origins of Liberalism in Cuba.

As new lawyers arrived to the island, the Spanish official policy to restrict the number of lawyers continued and was even enhanced. On May 4th, 1806, a Royal Decree limited

¹⁷³ AGI ULTRAMAR 360, N. 22 File of Vicente Romero Guinzo upon request of authorization to go to Havana with his lawyer, Nicolas Jacinto de Acea, to resolve some pending family issues along to collect some debts from creditors he has in the city.

¹⁷⁴ AHN CONSEJOS 12160, Exp. 7 File containing the request of Francisco de Paula Perez Rangel to practice as an attorney in 1801.

¹⁷⁵ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, from 1822 until 1828.

¹⁷⁶ AHN FC-M°_JUSTICIA_MAG_JUECES 4768, Exp. 7864 Professional file of judge Francisco de Paula Perez Rangel from 1834 to 1849; and AHN FC-M°_HACIENDA 2789, Exp. 619, File of classification of unemployment of the judge Francisco de Paula Perez Rangel, judge of *primera instancia* in Roda, in the province of Albacete.

to 50 the number of lawyers allowed to practice in Havana.¹⁷⁷ The circumstances of the Spanish Empire, however, had changed, and new ideology was spreading though both the Iberian Peninsula and its colonies. This was a movement that proposed social, political, economic, intellectual and legal transformations of the Ancien Regime: liberalism. This was an ideology increasingly appropriated by the inhabitants of the Empire and, among many other professional groups, the members of the legal field.¹⁷⁸

Since its origins, liberalism was an Atlantic movement, and the location of Havana and the constant movement of travelers through its harbor was the perfect scenario for the transit and mobility of those ideas.¹⁷⁹ The establishment of new editorials and printing houses in Cuba during the eighteenth century allowed an increase in the circulation of books.¹⁸⁰ This flourishing printing market facilitated the establishment of public and private libraries with an increasing number of volumes on legal and political matters circulating in Cuba. The 1846 census reported 233 printers and booksellers in Havana.¹⁸¹ The development of the market of books catalyzed the growth of a Creole intellectual movement when literature out of the control of colonial authorities spread throughout the

¹⁷⁷ Zamora, 345. “(...) siendo constante que el [número] de 50 [abogados], designado para la Ciudad de la Habana en la consulta que se le hizo a S.M. en 4 de Mayo de 1806 (...).”

¹⁷⁸ About the origins of Spanish liberalism and its spread through overseas possessions see Roberto Breña, *El primer liberalismo español y los procesos de emancipación de América, 1808 – 1824: una revisión historiográfica del liberalismo hispánico*, El Colegio de Mexico, 2006.

¹⁷⁹ This thesis contradicts Benedict Anderson’s idea that the trait of newspapers, and hence information, was always provincial. See Benedict Anderson, *Imagined Communities* (Verso Revised Edition, 1991), 62. In contrast, this study shows that the member of colonial communities were not as isolated as traditionally thought, and that there were intellectual movements that joined territorially distant groups.

¹⁸⁰ José María Aguilera Manzano, *Las Corrientes liberales habaneras a traves de las publicaciones periodicas de la primera mitad del siglo XIX*, Cuban Studies, Vol. 38 (2007), 126.

¹⁸¹ María Dolores Pérez Murillo, *Aspectos demográficos y sociales de la Isla de Cuba en la primera mitad del siglo XIX* (Servicio de publicaciones de la Universidad de Cádiz, Cádiz, España, 1988), 163.

colony. As a result, books became a widely available commodity, and private libraries came to exist in many erudite households in Cuba.

Examples of owners of significant private libraries are the lawyer José María Heredia and the Marqués de Someruelos, Governor Captain General of Cuba between 1799 and 1812. Heredia possessed 395 pieces divided into six sections: History, Poetry, Novels and Stories, Theater, Jurisprudence and Laws, and Miscellaneous with 20 accounts on legal topics mostly written in Spanish and French.¹⁸² Someruelos, on the other hand, accumulated 202 books classified in nine thematic groups. Among legal scholarship, Someruelos' library included holdings on sensitive subjects, especially public law and political economy: *Le droit Public de L'Europe* by G.B. de Mably; *Instituciones políticas* by Baron de Belefeld; *Elementos del Comercio* by Francois Veron du Verger; *L'ordre naturel et essentiel des sociétés politiques* by Paul Le Mercier de la Riviere; *Le Commerce et le Gouvernement* de Condillac; *La Riqueza de las Naciones* by Adam Smith; and, *Elementos del Derecho Público de la Paz y de la Guerra* by José Olmeda León.¹⁸³

Not only individuals but also institutions created their own libraries. On January 9th, 1793, the *Sociedad Economica de Amigos del País de la Habana* established the oldest library in Cuba, originally conceived of as a private library for the exclusive use of its

¹⁸² González Acosta, Alejandro, *Una biblioteca privada en México a principios de s. XIX: la lista de libros de José María Heredia (Toluca, 1833). Reconstrucción ideal de su colección.* Boletín Vol II número 1, primer semestre 1997, 83 - 91.

¹⁸³ Philosophy, Politics (including National Law), and Economy: 47, Religion: 46, History: 31, Sciences: 29, Literature: 16, Education: 10, Courtesy: 10, Dictionary: 8, and others: 5. Vázquez Cienfuegos, Sigfrido and Juan Amores Carredano, *Biblioteca del Marqués de Someruelos, Gobernador de Cuba (1799 – 1812)*, (Iberoamerican Pragensia – Supplementum 19/ 2007), 157 – 173

members.¹⁸⁴ Intellectual trends, however, especially those derived from the Enlightenment, pushed the *Sociedad* in Havana to open its library to the public shortly after.¹⁸⁵ The library of the *Sociedad Económica de Amigos del País* has been recognized as the first public library in Cuba, and it contributed to the general instruction of the inhabitants of the city. By 1808, the library reported approximately 600 visitors per month.¹⁸⁶ Not only libraries, but also lawyers became promoters of early forms of liberal ideologies at the turn of the nineteenth century.

One of the most significant promoters of liberal ideas in Cuba at the turn of the nineteenth century was the lawyer Francisco de Arango y Parreño. He was the student allowed to represent his father in the *Audiencia* of Santo Domingo in 1785, showing his precocious mind and intelligence.¹⁸⁷ Upon graduation, Arango became one of the most notorious lawyers and political activists in Havana. His political agenda, however, straddled the ancient and the modern regimes. He wanted to introduce technological innovations to develop the economy without eliminating slavery and the colonial relationship between Cuba and Spain.¹⁸⁸ Influenced by physiocracy, Arango presented to

¹⁸⁴ A precise date has not been found, but the lack of activity and publications, as well as the request made by the Cuban attorneys for the reestablishment of the Academy, suggest that it was closed around the beginning of the wars for independence in Cuba in 1868.

¹⁸⁵ Gianni Constantino and Julio Le Riverend, *Cuba: tierra y pueblo*, (Ediciones Caribbean's Color, Habana, Cuba, 1996), 15.

¹⁸⁶ Vilar, Juan, Antonio Peñafiel, and Antonio Irigoyen (coord.) *Historia y Sociabilidad*, Juan José Sanchez Baena y Celia Chaín Navarro, *La Real Sociedad Patriótica de la Habana y la Primera Biblioteca Pública de la Isla*, (Servicios de Publicaciones, University of Murcia, Murcia, 2007), 377.

¹⁸⁷ Whatley Pierson, William, "Francisco de Arango y Parreño," *The Hispanic American Historical Review*, Vol. 16, No. 4, (Nov., 1936), pp. 451 – 478, 456.

¹⁸⁸ Valdés Domínguez, Eusebio, *Los antiguos diputados de Cuba y apuntes para la historia constitucional de esta isla* (Imprenta El Telegrafo, Habana, 1879), 195.

Carlos IV during the Cortes of 1792 his “Discourse on agriculture in Havana and the means to promote it,” insisting on the convenience of slave labor to develop the local economy. He also emphasized the needs to increase the size of the white population to compensate the number of African slaves present on the island. Those requests reflected the mentality of Creole Cuban oligarchs concerning the need to increase Cuba’s agricultural production and exports challenged by growing international competition. Arango’s agenda also showed the fear of the island’s white elites over slave revolts across the colonial landscape, especially after the Haitian Revolution.¹⁸⁹ Later, in his 1808 “*Report of the Trustee in the case filed by the consulate in Havana on the means that should be proposed to take the agriculture and commerce of the island out of the plight in which they are,*” Arango outlined the problems of the colony and proposed the modernization of Cuba, while keeping it a Spanish colony.¹⁹⁰

Despite his proposals, Arango and his most renowned followers, Claudio Martínez Pinillo and Ramón de la Sagra, belonged to a moderated group that wanted to introduce some political and economic transformations while preserving Cuban colonial society and the island’s subordination to Spain. This view was dominant during the early years of the nineteenth century in Cuba, until a more progressive faction started promoting the idea to make the island an autonomic territory subordinated to Spain but with local government and legislation. Lawyer Domingo del Monte, member of one of the illustrious families that

¹⁸⁹ Arango y Parreño, Francisco de, *Discurso sobre la agricultura en la Habana y los medios para fomentarla*, in Isabel Monal and Olivia Miranda, *Pensamiento Cubano siglo XIX*, Editorial de Ciencias Sociales, La Habana, 2002.

¹⁹⁰ Arango y Parreño, Francisco de, *Informe del Síndico en el expediente instruido por el consulado de La Habana sobre los medios que conviene proponer para sacar la agricultura y comercio de la isla en el apuro en que se hallan*, in Isabel Monal and Olivia Miranda, *Pensamiento Cubano siglo XIX*, Editorial de Ciencias Sociales, La Habana, 2002.

had migrated from Hispaniola, was the leader of this political group that opposed Arango's colonialist stance. Del Monte's autonomist faction increasingly gained followers as the contradictions with Spain deepened.¹⁹¹ While the island experienced this political debate, Napoleon Bonaparte occupied Spain with his troops sending the recently crowned Bourbon Ferdinand VII into exile between 1808 and 1814.

Cuban Lawyers During the French Invasion and the Constitutional Period.

The Napoleonic invasion facilitated the spread of liberalism across the Spanish Empire. Once Ferdinand VII went into exile, local elites replaced the absence of power in Madrid creating boards or *juntas* throughout the colonial territories. In Cuba, local authorities gathered to create a junta, which included the presence of some notable members from the colonial establishment including lawyers such as Francisco de Arango y Parreño, and the *síndico procurador* Tomás de Palma.¹⁹² This process not only took place in the capital, but also in other towns such as Santiago de Cuba, which even considered the idea of splitting from the central authority in Havana.¹⁹³ As a result, ideas to promote economic and political change spread across Cuba and local creoles were empowered while lacking central power in Madrid.

In Spain, liberal forces joined and wrote the Constitution of Cádiz in 1812. Four Cubans participated in the Cortes of Cádiz: Marqués de San Felipe, Joaquín de Santa Cruz, Andrés

¹⁹¹ José María Aguilera Manzano, *Las Corrientes liberales habaneras a través de las publicaciones periódicas de la primera mitad del siglo XIX*, Cuban Studies, Vol. 38 (2007), 127.

¹⁹² For the formation of the Junta in Havana see Sigfrido Vázquez Cienfuegos, *La Junta de la Habana: Adaptación del Pacto Colonial en Cuba en Vísperas de las Independencias Hispanoamericanas (1808 – 1810)*, Consejo Superior de Investigaciones Científicas, Sevilla, 2013.

¹⁹³ Olga Portuondo Zuñiga, *Cuba: Constitución y Liberalismo*, Editorial Oriente, Santiago de Cuba, 2008.

de Jáuregui y Aróstegui, and Juan Bernardo O’Gavan y Guerra.¹⁹⁴ The constitutionalist government temporarily removed restrictions to legal practice and at least twenty candidates received authorization to practice between 1810 and 1814.¹⁹⁵ Liberal Spaniards had turned the law into a political weapon with the enactment of the Constitution of 1812, and, as a result, reduced restrictions to control those able to practice, interpret and teach law. This political use of the law extended to other areas of Spanish America, such as Mexico, where liberals started using the law as an expression of their social ideals and aspirations.¹⁹⁶ The Spanish constitutional regime even broke with the traditional limitations to study theology and canon law, lifting the restrictions based on lineage and race and issuing the Royal Order of January 29th, 1812, that allowed access to the university to African descendants.¹⁹⁷ This revolutionary reform showed the extent that liberalism

¹⁹⁴ Bernal Gómez, Beatriz, *Los diputados Cubanos a las Cortes de Cadiz*, Biblioteca Jurídica de la UNAM, 182; Valdes Dominguez, Eusebio, *Los antiguos diputados de Cuba y apuntes para la historia constitucional de esta isla* (Imprenta El Telégrafo, Habana, 1879), 194.

¹⁹⁵ *Guía de Forasteros de la Isla de Cuba y Calendario Manual para el año de 1837*, (Oficina de Arazoza y Soler, Habana, 1837), 131. As evidence shows these lawyers were authorized to practice between these years, organized by year in the *Guias de Forasteros* such as the one of 1837: Jose Francisco del Castillo, Sebastian Fernandez De Velazco, Juan Francisco Pascual, Lorenzo Inarra, Pedro Mártir Rodriguez, Lucas de Ariza, Manuel Garcia Fernandez, Antonio del Monte, Sebastian Pichardo and Pedro Garcia Chicano, among others.

¹⁹⁶ Timo Schaefer, *Liberalism as Utopia: the Rise and Fall of Legal Rule in Post-colonial Mexico, 1820 – 1900* (Cambridge University Press, 2017), 14 - 15.

¹⁹⁷ ANC, Fondos Asuntos Políticos, Legajo 214, Orden 118. “Deseando las Cortes Generales y extraordinarias facilitar a los súbditos españoles, que por cualquiera línea traigan su origen del África, el estudio de las ciencias, y el acceso a la carrera eclesiástica a fin de que lleguen a ser cada vez más útiles al estado, han resuelto habilitar como por el presente decreto habilitan, a los súbditos españoles que por cualquier línea traen su origen del África, para que, estando por otra parte dotados de prendas recomendables, puedan ser admitidos a las matrículas y grados de las universidades, ser alumnos de los seminarios, tomar el hábito en las comunidades religiosas, y recibir las órdenes sagradas siempre que concurran en ellos los demás requisitos y circunstancias que requieran los cánones, las leyes del reino y las constituciones particulares de las diferentes corporaciones en que pretendan ser admitidos, pues por el presente decreto solo se entienden derogadas las leyes o estatutos particulares que se opongan a la habilitación que ahora se concede (...).”

could reach in the breaking of racial barriers and related incorporation of more individuals into traditionally restricted studies and professional practices, including canon law.

The loosening of the requirements to access a university may have raised concerns among the properly established attorneys in Havana.¹⁹⁸ More flexible requirements were likely to favor the increase of the number of legal professionals offering their services in the city. At the same time, there were legal agents working without the proper authorizations, commonly known as *picapleitos*, who already competed with the law firms of the capital. As Bianca Premo explains, legal writers for hire existed across Spanish America since colonial times. They turned into anonymous legal agents that wrote petitions in the absence of lawyers and licensed *procuradores*. For that reason, King Felipe IV had tried to replace them by supervised business agents in the seventeenth century, but his policy had failed and could not restrain their increasing numbers.¹⁹⁹ Consequently, in 1812, lawyers from Havana requested that the liberal Spanish government in Cádiz authorize the creation of a *Colegio de Abogados* modeled after the *Colegio de Abogados* of Mexico, to restrict and supervise the legal professionals in the city.²⁰⁰

Colegios de Abogados were not a novel institution in the Spanish Empire. The first of these professional corporations existed in Barcelona when a guild for lawyers opened up

¹⁹⁸ ANC, Fondo Gobierno Superior Civil, Legajo 862, Orden 29197, Colegio de Abogados, Expediente promovido por varios abogados solicitando establecer un colegio in order to preserve the ethic and honor of the practice.

¹⁹⁹ Bianca Premo, *The Enlightenment on Trial: Ordinary Litigants and Colonialism in the Spanish Empire* (Oxford University Press, 2017), 47 - 48.

²⁰⁰ ANC, Fondo Gobierno Superior Civil, Legajo 862, Orden 29197, Colegio de Abogados, Expediente promovido por varios abogados solicitando establecer un colegio; and ANC, Fondo Gobierno Superior Civil, Legajo 47, Orden 28, Colegio de Abogados, Carta pidiendo informe sobre el establecimiento de un Colegio de Abogados en La Habana basados en los mismos estatutos que el de México.

in that city around the year 1333. Other cities established *Colegios de Abogados* during the early modern period, such as Zaragoza in 1578, Valladolid in 1592, Madrid in 1596, and Valencia in 1762.²⁰¹ *Colegios de Abogados* also opened in Spanish America during the late colonial period. These were the cases of Lima in 1726, Mexico in 1760 and Caracas in 1788. *Colegios* were not exclusive to lawyers; other legal professions already had established their associations and were functioning on Cuban soil. A Royal Order dated February 27th, 1796, for example, ordered the establishment a *Colegio de Escribanos* in the city of Havana under the immediate protection of the Council of the Indies.²⁰²

The lawyers from Havana wanted to model their professional association based on the one in Mexico. The *Colegio de Abogados* of Mexico had had two *Estatutos* by 1812: the foundational statutes of 1760 and the reformed statutes of 1808. The statutes of 1760 were modeled after the *Colegio* of Madrid and it had more flexible requirements than the statutes of 1808. In 1760, the *Colegio* required the applicants to be examined before the Royal *Audiencia*, registered in that court, sworn to defend Catholicism, obey the *Colegio*'s Dean, and respect the statutes.²⁰³ In 1808, the new statutes of the *Colegio de Abogados* of Mexico preserved as requirements that lawyers should be enlisted in the *Audiencia*, either residing in the same area or in the capital, but included some new elements in the application.²⁰⁴

²⁰¹ Tormo Camallonga, Carlos, *El Colegio de Abogados de Valencia: entre el antiguo regimen y el liberalismo* (Universidad de Valencia, Valencia, 2004), 31 – 32.

²⁰² *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1814), 191.

²⁰³ *Estatutos y constituciones del Ilustre y Real Colegio de Abogados establecido en la Corte de México, con aprobación de su real inmediata protección, para el socorro de las personas y familias de los profesores de las abogacía*, Imprenta de Gabriel Ramirez, Madrid, 1760. In the number II of the statutes reads: “Que a este Colegio no se admitan otros que los que fueron abogados examinados ante la Real Audiencia o matriculados en ella, bien residan fuera o en este corte y admitidos en él se matriculen jurando defender el Misterio de la Concepción Purísima, obedecer al Rector, y guardar los estatutos.”

²⁰⁴ *Estatutos del Ilustre y Real Colegio de Abogados de México nuevamente reformados y añadidos con aprobación superior, conforme a la Real Cédula de su erección*, Oficina de Arizpe, 1808. In article II.1

The revised statutes required applicants to have good life and customs, as well as lineage and *limpieza de sangre*.²⁰⁵ To prove those requirements, the candidates should present twelve witnesses along with seven certificates of baptism: from the applicant, his parents and grandparents.²⁰⁶ The members of the *Colegio* should even scrutinize potential wives of the applicants before authorizing engagements or weddings.²⁰⁷ The requirements, hence, were stricter than those of 1760, and implied more restrictions to the practice of law. Based on their request, this was the legislation that Cuban lawyers wanted to adopt, proving their intention to limit the practice of the law and preserve it as the privilege of a reduced and selective group of members within Cuban colonial society.

Probably the most anti-liberal requirement to becoming a member of the *Colegio de Abogados* of Mexico was to prove *limpieza de sangre*. This was a concept developed in Spain after the War of Reconquest that distinguished “old” Spaniards with respect to Jews and Moors that converted to Catholicism to avoid expulsion from the Iberian Peninsula. After the colonization of America, Spaniards transplanted this idea to America as a measurement of personal and social quality; but also as a representation of tradition and

states: “solo se admitirá a este Colegio, Abogados matriculados en Real Audiencia, bien residan fuera o en la capital (...).”

²⁰⁵ Ibid. In article II.2 says: “(...) abogados ha de ser de buena vida y costumbres, hijo legítimo o natural de padres conocidos, pero ni bastardo ni espúreo, y así el pretendiente como sus padres y abuelos maternos y paternos, hayan sido cristianos viejos limpios de toda mala infección, y raza de moros, judíos, mulatos, o de recién convertidos a nuestra fe católica.” In article II.3 reads: “Que al menos el pretendiente y sus padres no hayan ejercido ni tengan ejercicio vil (...).”

²⁰⁶ Ibid. In article II.4 states: “Estas cualidades se deberán probar con doce testigos mayores de toda excepción y se han de presentar siete partidas de bautismo legalizadas, que son, la del pretendiente, las de sus padres, y las de sus cuatro abuelos.”

²⁰⁷ Ibid. In article II.21 rules: “Los que quieran casarse, avisarán oportunamente al Rector para que instruya la calidad de la que intentan tomar por mujeres con tres testigos, por ante un juez ordinario, o comisionados del Colegio (...).”

custom.²⁰⁸ As Pérez-Perdomo explains, universities and *Colegios de Abogados* across Spanish America considered *limpieza de sangre* for the admission of students during the colonial period, and were very strict in enforcing this rule.²⁰⁹ The intention to apply this restriction to Cuba by adopting the statutes of the *Colegio de Abogados* of Mexico demonstrated the colonial mentality of the elite of lawyers established in Havana, and how they followed the path of their colleagues in continental Spanish America. However, this plan contrasted with the Cadiz's liberal approach that favored the loosening of the requirements, including the acceptance of African descendants.

The proposal to model the *Colegio* in Havana after the Mexican one also showed that lawyers identified themselves with members of their profession across the Spanish Atlantic. Cuba was a part of the Spanish Empire, and there were multiple cases of relocation of legal professionals between Mexico and Cuba during the nineteenth century. Mexican lawyers Manuel de Lizana, Francisco Encinoso de Abreu, and Juan Bautista Jabat, for example, applied to positions in Cuba to advance their careers since they wished to become *oidores* in New Spain.²¹⁰ In contrast, Cuban lawyer and clergyman Félix José Rodríguez was involved in both ecclesiastic and secular courts, and transferred himself

²⁰⁸ For the study of *limpieza de sangre* and its transplant to America, see María Elena Martínez, *Genealogical Fictions: Limpieza de Sangre, Religion and Gender in Colonial Mexico*, Stanford University Press, 2008.

²⁰⁹ Pérez Perdomo, 24 – 25.

²¹⁰ For Manuel Linaza see Archivo General de la Nación de Mexico, GD 45 Escribanos Vol.23, No. 13, fs 160 – 161, Marzo 17-31 de 1810; for Francisco Encinoso de Abreu, Archivo General de la Nación de Mexico, Indiferente Virreinal caja exp. 5491-023, Oficios vendibles, fs. 5, 1780; for Juan Bautista Abat see Archivo General de Indias, Ultramar 350, Expediente 70, Expediente de Juan Bautista Abat. Report of the Capitania General explains that Jabat, a Mexican attorney, has requested authorization to visit Havana as curator for a property claim of his son, Rafae Jabat, in this city. The same document mentions the co-curator, Jose Ilincheta, honorary judge of the *Audiencia of Guadalajara* and *vecino* of La Habana still in 1828.

from Havana to Mexico to practice there upon Mexican independence.²¹¹ Other lawyers relocated by force, such as José María Heredia, whose library was previously mentioned. Heredia had resided in Mexico as a teenager where his father, also mentioned earlier, occupied a position within the judiciary and criminal system. In 1825, after his participation in conspiracies against Spain, Heredia established himself in Mexico where eventually he would become a Mexican citizen and *oidor*.²¹² Finally, some lawyers just moved due to personal reasons such as marriage, which was the case of Leonardo Mirafuentes Daniel, or businesses, especially when a ferry from Yucatán to Havana began operation.²¹³ Irrespective of the reason, there was a clear flux of legal professionals between continental and insular New Spain, later Mexico, and presumably with the rest of the Spanish Empire as well.

The Spanish government indirectly promoted the mobility of lawyers within the Empire. The Crown usually ordered the relocation of legal professionals either as judges, professors of law, or *fiscales*. Professionals based in Cuba found themselves travelling from different positions within the Empire, moving to the Philippines or making their way back to Spain after spending several years in the colonies. The proximity to Puerto Rico and the fact that both islands integrated the same *Capitanía General* created special

²¹¹ AGN, GD61 Inquisition, Vol. 1315, exp. 6, fs. 259-272, 1790; GD61 Inquisition, Vol. 1385 exp. SN, fs, SN.117, 1794; and GD61 Inquisition, Vol.1385, exp. SN, fs. SN, SN. 197, year 1795.

²¹² AGN, GD Relaciones Exteriores, siglo XIX, caja 36, exp. 15, fs. 15-18. Fecha Agosto – Octubre 1825; GD 129 Pasaportes, Vol. 4. Exp./fs 25/134-136. Also see Alejandro Mayagoitia, *Fuentes para servir a las biografías de abogados activos en la Ciudad de Mexico durante el siglo XIX*, Ars Iuris No. 18, (Revista del Instituto de Documentación e Investigación jurídica de la Facultad de Derecho de la Universidad Panamericana, Mexico City, 1998), 515.

²¹³ Alejandro Mayagoitia, *Fuentes para servir a las biografías de abogados activos en la Ciudad de Mexico durante el siglo XIX*, Ars Iuris No. 17, (Revista del Instituto de Documentación e Investigación jurídica de la Facultad de Derecho de la Universidad Panamericana, Mexico City, 1998), 363.

conditions for a permanent transit of magistrates and officials from one to the other. Legal scholars were temporarily assigned to occupy public offices not only in other colonies, but also in the interior of the island.²¹⁴ This mobility of lawyers facilitated the spread of ideas and political views, including a movement that supported some changes and that seemed unstoppable in Cuba.

During the constitutional period of 1812, some legal professionals in Cuba showed their aim for political transformations by the proposal of three different constitutional projects. The lawyer, academic and intellectual Presbyterian José Agustín Caballero authored a constitutional project in 1811. Caballero preserved the condition of Cuba as a Spanish territory but regulated by local laws. Hence, Cuba would have a local government led by the Capitan General and a National Assembly of the People, or *Cortes Provinciales*, comprised of 60 deputies. Conservative in regards to rights, Caballero suggested that only Spanish descendants with *limpieza de sangre* and real estate holdings in Cuba should vote.²¹⁵ This idea intended to prevent the involvement in politics of *peninsulares* that had recently arrived to Cuba and lacked properties and wealth.²¹⁶ It also corresponded to the

²¹⁴ In AHN there are several files containing documents describing the process of appointing and naming Cuban officials to work in the island. They show how legal professionals from different parts of the Empire applied to work in the island, or how Spanish authorities appointed them. For example, Ultramar 4610 Expediente 22, Nombramiento de censores regio para la Isla de Cuba, Appointment of royal censors for Cuba; Ultramar 153 Expediente 44, Pretendientes a magistraturas de la Audiencia de La Habana, Applicants for magistrates at the Audiencia of Havana; Ultramar 162, Expediente 37, Provisión de una plaza de oidor de la Audiencia, Provision of a position of oidor in the Audiencia.

²¹⁵ Antonio Filiu Franco Pérez, *La eclosión del particularismo cubano: el proyecto descentralizador de Jose A. Caballero (1811)*, Historia Constitucional (revista electrónica), 2000:<http://hc.rediris.es/01/index.html>, n. 1, 165 - 185; and Julio Carreras Collado, *Historia del Estado y del Derecho en Cuba*, (Editora Política, Havana, 1981), 156.

²¹⁶ Franco, 183.

aristocrat and elitist vision of the lawyers from Havana who wanted to create a local political system with exclusive popular participation.

Francisco de Arango y Parreño drafted the second of these constitutional proposals in 1812, and Andrés de Jáuregui, one of the promoters of the Junta in Havana, presented this project for consideration to the Cortes of Cádiz. The draft of the constitution proposed to make Cuba a Spanish province rather than a colony with a local government comprised of a Capitan General, a Provincial Council, and *Cabildos*. The draft focused on the economic development of the island including some liberal rights such as free trade and open markets, while omitting references to political participation by creoles. In addition, the draft preserved the institution of slavery as the backbone of Cuba's sugar industry.²¹⁷

Joaquín Infante, a lawyer from Bayamo, drafted the third and only separatist constitutional project during this period. Unlike the previous authors who remained in Cuba, Infante was in exile in Venezuela for conspiracy where he wrote his proposal inspired by the independentist movements in South America. He divided the Cuban state into four branches: legislative, executive, judiciary, and military.²¹⁸ This constitution also included political rights such as press, speech, and inviolability of domicile and correspondence. It also introduced reforms on family law approving interracial marriages, equality of children, and distribution of the land. This was a progressive proposal that, otherwise, preserved the institution of slavery and limited suffrage.²¹⁹ The existence of

²¹⁷ Carreras Collado, *Julio, Historia del Estado y del Derecho en Cuba*, (Editora Política, Havana, 1981), 153.

²¹⁸ Each branch was collegiate as a democratic system. Infante formed the legislative by six deputies, the executive by three Secretaries (War and Marine, Public Finances and Internal Affairs), the Supreme Court by six judges, and the military by a Board of a military Chief and two brigadiers.

²¹⁹ Hortensia Pichardo, *Documentos para la Historia de Cuba*, 253; Carreras Collado, *Julio, Historia del Estado y del Derecho en Cuba*, (Editora Política, Havana, 1981), 156; Enrique Hernandez Corujo, *Historia*

these proposals, and the idea of independence for Cuba raised the King's concerns upon his return to Madrid in 1814, and probably determined the continuance of his policy to restrict the number of lawyers at any cost.

The Bourbon Restoration's Policy on Lawyers

In 1814, Ferdinand VII returned to Madrid. Contrary to the policy of the constitutional government, the King did not change his strategy concerning the number of lawyers allowed to practice in Cuba. On May 13th, 1809, a revision of the 1806 Royal Decree that limited to 50 the number of lawyers in Havana slightly increased it to 62. Regardless of this cap, lawyers continued establishing themselves in Cuba, and settled mostly in two major cities: Havana, as the capital and the center of commercial and civil transactions, and Puerto Príncipe, the residence of the *Audiencia*. The *Guía de Forasteros para la Isla de Cuba* of 1814 reflected the concentration of lawyers in these cities listing 88 lawyers in Havana and 16 lawyers in Puerto Príncipe, while omitting information about lawyers on the rest of the island.²²⁰

Upon his return to Madrid in 1814, Ferdinand VII attempted to bring Spain back to the conditions prevailing before he went into exile. Realizing that liberal groups had strengthened during his absence, Ferdinand's anti-liberal policies included repressive measures against those "afrancesados" suspected of sympathy towards French revolutionary ideas. He also wanted to reduce the number of lawyers as a professional

Constitucional de Cuba, (Compania Editora de Libros y Folletos, Havana), 65, Bernal, *Juristas por la independencia*, 253 - 255.

²²⁰ *Guía de Forasteros de la Isla de Cuba y Calendario Manual para el año de 1814*, (Oficina de Arazoza y Soler, Habana, 1814), 185, 188 – 190.

group that had promoted liberal ideas in Spain and Spanish America, and that the Cadiz's liberals had embraced.²²¹ Thus, based on an *Audiencia de Puerto Príncipe* report, the King issued a new decree on September 15th, 1815 that fixed at 60 the number of lawyers allowed to work in Havana.²²² Taking into consideration that the *Guías de Forasteros* of 1795 had listed 73 lawyers for the city of Havana alone, these restrictions potentially left without authorization to practice those lawyers who numbered beyond the new quota. This situation was further aggravated when in 1816, Ferdinand VII set in place a system limiting the number of lawyers, not only for Havana, but for the entire island.

The Royal Decree of March 28th, 1816 fixed a specific number of lawyers to practice in Cuba. It ratified the figure of 60 lawyers authorized in Havana since 1815, and fixed quotas for cities and towns along the island: 16 lawyers for Puerto Príncipe, 11 for Santiago de Cuba, 8 for Bayamo, 6 for Sancti Spiritus, 4 for Trinidad and Santa Clara, 3 for Holguín, 3 for Guanabacoa and 3 for Matanzas, 2 for Remedios, and 1 for Güines, 1 for Santiago de las Vegas, 1 for San Antonio de los Baños and 1 for Baracoa.²²³ The total number of

²²¹ Recent studies have proven the involvement of lawyers in the movements of independence across Latin America, not only as members of the professional community but also as promoters of liberal ideas and change. On that regard, see José María Pérez Collado and Samuel Rodríguez Barbosa, editors, *Juristas de la independencia*, Macías Pons, 2012. This is a compilation of articles that includes one study for each Latin American country, although in some cases, such as Cuba, the analysis remains superficial.

²²² Zamora, 345. “Se asigna en su consecuencia para dicha ciudad el número de 60, que el señor Presidente ha calificado por bastante en su informe de 15 Septiembre último.”

²²³ *Ibid*, 346 - 347. *Real Acuerdo* signed in Puerto Príncipe on March 28th, 1816. “(...) Habiendo visto en acuerdo este expediente formado sobre el número de abogados dijeron que para que las causas cursen con brevedad (...) es indispensable señalar a cada uno de los pueblos de la Isla: (...) se asigna para dicha ciudad [de la Habana] e número de 60 (...) Para la ciudad de [Santiago de] Cuba (...) se le señala ahora el de 11 (...) Para la villa de Guanabacoa (...) se destinan solamente tres abogados. El propio número 3 abogados se señala a la ciudad de Matanzas. En (...) Güines y en (...) San Antonio y Santiago [de las Vegas], se estima de necesidad un abogados en cada una (...) Para la ciudad de Trinidad se asignan 4 abogados. Para la villa de Santa Clara (...) se señalan 4 abogados. Para las Villas de Sancti Spiritus y San Juan de los Remedios se considera suficiente el número de 6 la primera y 2 la última (...) Para la de Bayamo (...) se le señala el número de 8. Para la ciudad de Holguín (...) se le asignan 3 letrados. Para la ciudad de Baracoa se estima ser

lawyers authorized across the island was 124. In the cases of Bayamo, Baracoa and Puerto Príncipe colonial authorities merely left the number of lawyers currently existing in those cities. In most cases, however, the Crown just ordered a number based on random or unrealistic estimates. This was, for example, the case of Holguín, city with an estimated population of 12,000 inhabitants that only received a quota of 3 lawyers.²²⁴ Cuban attorneys, hence, became restricted all across the island and the growing profession found itself in contradiction with the Spanish Crown.



Map 2. Number of lawyers authorized to practice in Cuba by city/ town in 1816.

Regulations for the practice of lawyers incorporated a new requirement to practice consisting in attending an *Academia de Jurisprudencia*. On May 28th, 1818, the members

suficiente el Lic. Angel Garrido, que allí reside (...) esta villa de Puerto Principe que tiene señalado el número de 16 letrados.”

²²⁴ Zamora, 346 - 347. *Real Acuerdo* signed in Puerto Principe on March 28th, 1816. “Para la ciudad de Holguin, considerando que es una de las poblaciones que han tomado mas increment, y que ya en la fecha en que sus justicias evacuaron el primer informe, constaba más de doce mil almas, siendo muchas las causas criminales que en esta población ocurren anualmente, se le asignan tres letrados, y no habiendo en el día sino dos, que lo son los Lic. Jose Rosalia Batista y D. Miguel Reinaldos, se admitirá a examen y recibirá para completar dicho número el Br. D. Diego de Fuentes (...).”

of the *Real Acuerdo* of the *Audiencia* of Puerto Príncipe proposed a new plan to eradicate the unauthorized and unethical practice of law in Cuba.²²⁵ The intention of this proposal was to facilitate the attendance of local candidates to an *Academia* to enhance their legal training while introducing stricter standards for lawyers. Applicants required attending this *Academia* for a year during the six-year internship period before becoming lawyers authorized to plead before the *Audiencia*.²²⁶ The plan would also impact *picapleitos*, legal agents engaged in unauthorized legal representation who thereafter had to fulfill this additional requirement in order to obtain their licenses. This idea not only made it more difficult to become a lawyer, but also affirmed the strict policy to reduce their number.

After the members of the *Real Acuerdo* paved the way for the creation of an *Academia de Jurisprudencia* in Cuba, Ferdinand VII also revised the other requirements to become a lawyer in the Royal Order of June 8th, 1818. First, it was necessary to have a vacancy within the quotas fixed in 1816. Second, a graduate of Bachiller would have to attend a six-year internship in *estudio abierto*, and enroll for a year at least in the *Academia de Jurisprudencia*. Third, candidates would have to produce Baptismal Certificate and evidence of *limpieza de sangre* supported with letters of recommendation or report from three senior lawyers. Fourth, the candidate would have to present transcripts and diploma from the university. Fifth, the *fiscal* of the *Audiencia* had to review the documentation and

²²⁵ The *Real Acuerdo* was a local council integrated by the Captain General and *oidores*, and they submitted their agreements to the King for confirmation, see Zamora, 347 – 348.

²²⁶ Zamora, 347 – 348. Real Acuerdo signed in Puerto Principe on May 28th, 1818. “Con vista del oficio del Sr. Regente (...) proponiendo la erección de una Academia de Jurisprudencia práctica, y acompañado de los estatutos para su gobierno, dijeron: que en consideración a las notorias ventajas qe debe producir su establecimiento (...) que en lo sucesivo ninguno sea admitido a exámen de abogados sin presentar certificación de haber asistido por espacio de más de un año, de los seis que están prevenidos para la pasantía (...).”

present favorable report to its President. Sixth, candidates had to pass the evaluation of the members of the *Audiencia*, where those with an impeccable record and the longest experience would have preference. In addition, judges had to submit a yearly report about the lawyers practicing in the territory under their jurisdiction containing their residency and seniority.²²⁷ Additionally, the *Real Acuerdo* forbade lawyers who would authorize with their signature illegal representation by *picapleitos* or *papelistas*, penalizing them even with the suspension of their licenses.²²⁸

Shortly after, Ferdinand VII ordered the establishment of *Colegios de Abogados* and *Academias de Jurisprudencia* in Spain and its colonies in a Royal Order dated September 4th, 1819.²²⁹ For lawyers in Cuba, this law paradoxically satisfied their requests of 1812 and 1818 to have a *Colegio* and *Academia*, respectively. Ferdinand VII seemed to be particularly solicitous when he authorized two *Colegios de Abogados* for Cuba: one in Puerto Príncipe with 24 *colegiados*, and another in Havana with 80, along with an

²²⁷ Zamora, 10 – 11. Real Acuerdo signed in Puerto Príncipe on June 8th, 1818. “(...) con el objeto asimismo de obviar prejuicios a los interesados, y de proveer el mayor decoro de la noble profesión de la abogacía (...): 1. El que pretenda ser recibido de abogado, después de haber cumplido los seis años de pasantía posteriores al grado Bachiller acreditados con certificación jurada, y asistido uno de estos a la academia de Jurisprudencia (...) cuando haya vacante en el número designado para la isla; 2. (...) fe de bautismo y limpieza de sangre; 3. (...) calificación de la Universidad (...), 4. Si ocurriesen dos o más para una vacante (...) se proveerá en el más antiguo o digno (...); 5. Para la vacante en las capitales, serán preferidos por su mérito y antigüedad (...); 6 (...) ningún abogados podrá ejercer su profesión sin manifestar que se haya habilitado por la Audiencia para tal lugar (...); 7. las mismas justicias tomando razón de lo abogados destinados para su distrito, la darán a la Real Audiencia en fin de cada año (...); 8. Sin acreditar esta residencia los abogados, no ganarán la antigüedad no tendrán preferencia para las vacantes (...).”

²²⁸ Ibid. Real Acuerdo signed in Puerto Príncipe on June 8th, 1818. “(...) 9. Los que se avansasen a ejercer la profesión contra lo dispuesto en este acuerdo, y los que se degradasen hasta el punto de prestart su firma a escritos de los papelistas, seran por el mismo hecho, y por sola su justificación sumaria, suspendidos o corregidos según a gravedad del exceso (...).”

²²⁹ ANC, Fondo Gobierno Superior Civil, Legajo 327, Orden 11139. File formed for the opening of the *Academia de Jurisprudencia*.

Academia de Jurisprudencia.²³⁰ Additionally, this Royal Order contained a decree lifting the prohibition introduced in 1784, and confirmed in 1789, that only *peninsulares* could be lawyers in Cuba.²³¹ This modification made it possible for law students born or graduated in Cuba to become lawyers on the island. Ferdinand VII's reforms, however, could have multiple interpretations.

Ferdinand VII's response to the opening of the *Colegios* in Cuba could have been part of the same process of professional association that took place across the Spanish Empire over centuries in a pre-liberal era. The authorization to open the *Colegio de Abogados* could further be considered as a late response, only linked to the growth of the number of lawyers and the expectation to implement mechanisms of control on the legal profession and their practitioners in the island. The establishment of *Colegio de Abogados*, however, in a tense political moment was undoubtedly a manifestation of late corporatism, a form of rather reactionary gremial organization in a period when liberals were increasing their presence and calling for a substitution of collective medieval and colonial social organization in professions and guilds. Instead, they favored the individualistic approach typical of the liberal way of thinking. Hence, it is fair to imagine that Ferdinand VII was using a medieval tool to limit the spread of liberalism. Also, the Royal Decree affirmed the requirements contained in the *Real Acuerdo* of 1818, including pre-liberal factors such as *limpieza de sangre*.

²³⁰ ANC, Fondo Reales Ordenes y Cédulas, Orden 31, Legajo 87, Letter about the number of lawyers in the Audiencias; ANC, Fondo Gobierno Superior Civil, Legajo 327, Orden 11139, File formed for the opening of the *Academia de Jurisprudencia*.

²³¹ Royal Decree of Ferdinand VII dated September 4th, 1819. See Zamora, 351. "(...) he tenido a bien alzar desde luego la prohibición impuesta por las Reales Órdenes de 1784 y 1789, y dejar en absoluta libertad a los cursantes de Derecho de la isla de Cuba para que puedan recibirse de abogados en su Audiencia, previous los requisitos y exámenes determinados por las leyes (...)."

The first institution created in compliance with the Royal Order of 1819 was the *Academia Teórica de Legislación y Jurisprudencia* of Puerto Príncipe in the same year. Subordinated to the *Audiencia*, it was conceived as an academic center for law students to receive mandatory complementary training to become lawyers.²³² Law graduates had to attend this *Academia* for two years upon culmination of the sixth year of internship but before receiving their final authorization to work as lawyers.²³³ This regulation modified the original proposal of the *Real Acuerdo* to attend for a year during the six-year internship, delaying the moment to receive the authorization to practice while providing a more rigorous training. Based on the ideas to restrict the practice of lawyers, the *Academia* was meant to control the legal training imparted and followed the lines of formal education within the plans of the University of Havana.

The Royal Order of 1819 also ordered the establishment of the *Colegio de Abogados*. As a result, local lawyers started communicating with the Spanish authorities to prepare the opening of the *Colegio de Abogados*, along with another *Academia de Jurisprudencia Práctica y Legislación*, except this one would be in Havana. As part of the preparation process, D. Joaquín Bernardo de Campuzano, Chief Justice of the *Audiencia* of Puerto Príncipe, wrote a letter to the Civil Governor of Cuba and Captain General D. Juan Manuel de Cagigal on March 2nd, 1820, asking him to confirm the number of attorneys that each *Colegio*, Havana and Puerto Príncipe, should have.²³⁴ This information was crucial since

²³² *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1834), 173.

²³³ ANC, 1820, Fondo Gobierno Superior Civil, Legajo 327, Orden 11139, File formed for the opening of the *Academia de Jurisprudencia*.

²³⁴ ANC, Fondo Gobierno Superior Civil, Legajo 327, Orden 11139, File formed for the opening of the *Academia de Jurisprudencia*.

part of the King's plan was to limit the number of lawyers in those cities. In compliance with the Royal Order, the *Audiencia* affirmed that 80 lawyers were to be chartered in Havana and 24 more in Puerto Príncipe. These numbers proposed an increase to the quotas of Ferdinand VII for these two cities, but the numbers were still limited with respect to the actual amount of *letrados* living in each of these towns.

On March 23rd, 1820, the Auditor of the *Audiencia* and *letrado* Leonardo del Monte y Medrano wrote to Cagigal proposing the appointment of the oldest attorney of each town as the Dean of the *Colegio* and the formation of a commission with the four oldest attorneys of each town to write its statutes.²³⁵ Del Monte suggested that those statutes should be discussed in *Junta General* of attorneys and considered by the *Audiencia*, the institution that would enact the final version. Del Monte also referred to how convenient it would be opening an *Academia of Jurisprudencia* in Havana given that many young law students who lived in this city remained unable to graduate. This was because they had to face the costs of relocating to Puerto Príncipe to attend the *Academia*. He also referred to the moral dangers to which those students would be exposed and included “vices” derived from separating from their families and living on their own. Cagigal agreed to Del Monte's proposals ordering on March 27th, 1820, to comply with his requests, and commissioned the four older lawyers of Havana to write the statutes.²³⁶

²³⁵ Leonardo del Monte was a lawyer and politician who was born in Dominican Republic who moved to Cuba during the 1810s, reaching the position of Auditor of the *Audiencia* of Puerto Príncipe and becoming an essential part of Cuban colonial elite. See Opatny, Josef, Domingo del Monte en la discusión sobre la trata y la esclavitud, at Opatny, Josef, ed., *Proyectos políticos y culturales en las realidades caribeñas de los siglos XIX y XX*, (Universidad Carolina de Praga, 2016), 167.

²³⁶ They were Luis Hidalgo Gato, Juan Bautista Galainena, Mariano de Casas and, Joseph Maria Pumarejo. Galainena excused himself based on health and age issues, and Cagigal nominated Carlos de Castro Palomino, who finally became the fourth member of this commission. See Archivo Nacional de Cuba, Fondo

Although the colonial authorities had appointed the commission, its works were delayed for various years. While lawyers in Havana were drafting the rules to form the *Colegio de Abogados*, their fellows in South and Central Spanish America were fighting for independence during the first half of the 1820s.²³⁷ Fernando VII, consequently, wanted to consolidate his remnant possessions in the American continent and, facing the rise of separatist political ideology, he intensified the prosecution of liberals. Royal activities included the surveillance of lawyers and the control of the propagation of liberalism. This situation only aggravated after a liberal uprising in Madrid in 1820 seized the control of Spain, and reestablished the Constitution of 1812. The restoration lasted three years, a period known as the liberal triennium. During this term, lawyers led movements for liberal reforms in Cuba.

A first process that confirmed the propagation of liberalism in Cuba was the emergence of liberal professors of law, Father Félix Varela Morales being the most significant representative. In addition to the University of Havana and the *Academia de Legislación y Jurisprudencia* of Puerto Príncipe, other academic institutions had incorporated courses of law in their curriculums, such as the *Seminario de San Carlos and San Ambrosio* in Havana, and the *Colegio Seminario de San Basilio Magno* in Santiago de Cuba.²³⁸ In *San*

Gobierno Superior Civil, Legajo 327, Orden 11139, Colegio de Abogados, Expediente sobre la formación de un colegio y academia de jurisprudencia.

²³⁷ Victor Uribe-Urán, “Distintos tonos de gris: Los juristas y las independencias de Iberoamérica, 1808-1821,” in Santiago Muñoz Machado, ed., *Historia de la abogacía española* (Cizur Menor, Navarra: Editorial Arazandi, 2015), vol. 1, p. 897-937.

²³⁸ Portuondo Zúñiga, Olga y Rovira, Yoan, *El Colegio Seminario San Basilio Magno*, Editorial Oriente, Santiago de Cuba, 2000, 58. *San Basilio Magno* created a Chair of Canon and Civil Law held by Jose Villar Palacios until 1820. The Chair of Canon and Civil Law of the Colegio of San Basilio Magno was vacant for many years during the 1820s, although the Chair continued open and the classes taught. *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1818), 167; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1820), 167; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1822), 136; *Guía de Forasteros en la siempre fiel Isla de*

Carlos, an ecclesiastical lawyer who held the Chair of Modern Philosophy, Félix Varela Morales, created the first Chair of Constitutional Law in 1820. Varela held the Chair until he moved to Spain in 1822, as representative of Cuba in the Spanish Cortes. In this capacity, he wrote and taught a treaty of Constitutional Law, where he discussed the regulations of the liberal Constitution of 1812. Varela's activities promoted most of the liberal agenda, including the abolition of slavery, which was one of his major pursuits when acting as one of the deputies from the island in Madrid.²³⁹ Liberalism appeared to be spreading through Cuban academic institutions.

Debates about modifications to the plan of studies in Latin America to oppose dissenting political ideas was not unique to Cuba and the Spanish colonial government. As Victor Uribe explains, a similar debate took place in Colombia during the 1820s when Vice President Santander introduced a plan of study for the School of Law in 1825 containing controversial literature, specially the books of utilitarian Jeremy Bentham in classes on Public Law.²⁴⁰ The conservative group that formed the Catholic Church and the aristocracy rejected those materials, while liberals supported their use until Simón Bolívar banned

Cuba (Habana, Imprenta del Gobierno, 1824), 173; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1826), 228. *San Carlos* had a Chair of Jurisprudence held by Justo Maria Velez or, *ad interim*, by José Agustín Govantes. See *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1818), 167; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1820), 167; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1822), 136; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1824), 172; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Habana, Imprenta del Gobierno, 1826), 228

²³⁹ Corwin, Arthur F., *Spain and the Abolition of Slavery in Cuba, 1817 – 1886* (University of Texas Press, 2014), 37.

²⁴⁰ Victor Uribe Uran, *Honorable Lives: Lawyers, Family, and Politics in Colombia, 1780 – 1850* (University of Pittsburgh Press, 2000), 108 – 109.

them in 1828.²⁴¹ Cuba, as part of the Atlantic World, also received Bentham's influence during that decade, and members of the legal community made echoed his political thinking. Lawyer, Evaristo Zenea Luz, a graduate from 1821, published and disseminated his work.²⁴² Zenea would become a professor of philosophy at the University of Havana and, as Varela did, he became a promoter of political, social and economic reforms from within the Cuban classrooms.²⁴³

A second process indicative of the presence of liberalism in Cuba was the change in the political status of the island with respect to Spain. In 1820, the liberal government bestowed on Cuba the condition of province rather than colony. Consequently, the island received three seats in the Spanish Cortes and three delegates were elected and sent to Madrid. Those deputies were the aforementioned clergyman Félix Varela, Tomás Gener Bohigas from Matanzas and the lawyer Leonardo Santos Suárez from Havana. These three deputies unanimously voted for the destitution of Ferdinand VII on June 11th, 1823. Upon restitution of this Monarch that same year, the three deputies, Varela, Gener and Santos, had to flee to Gibraltar, finally settling in the United States.

The implementation of a form of political participation for the inhabitants of the island during the triennium favored the resurfacing of ideas of self-government, as had been done by Francisco de Arango Parreño, José Agustín Caballero and Joaquín Infante during the

²⁴¹ Ibid.

²⁴² Larry Russel Jensen, *The mania to write and read: culture and repression in colonial Cuba, 1790 – 1840* (Stanford University, 1981); and *Jeremías Bentham en el pensamiento americano*, La Prensa, Buenos Aires, May 25, 1947, sec. 2, p.2 referred in Theodora Louise McKennan, *Santander and the Vogue of the Benthamism in Colombia and Nueva Granada*, Dissertation accessed via online (Loyola University, Chicago, 1970), 2.

²⁴³ See mini-biography of Evaristo Zenea de la Luz in Francisco Calcagno, *Diccionario biográfico cubano* (N. Ponce de Leon, 1878), 714.

constitutional period in the early 1810s. Félix Varela wrote a constitutional project proposing an autonomic regime under the direction of *Diputaciones Provinciales* and focused on the idea that creoles should enact their own rules.²⁴⁴ Other constitutional project came from the *Regidor* of Matanzas, Gabriel Claudio de Zequeira, who, upon its approval by the city of Matanzas on April 12th, 1822, sent it to the Spanish Cortes for consideration. This draft established an autonomic regime in Cuba conceived under the separation of powers where a Capitan General would manage the island with the assistance of an Advisory Council of eleven members and a Legislative Assembly of 33 deputies.²⁴⁵ None of these projects ever passed in the Spanish Cortes, but in any case, they symbolized the political aspirations of autonomism in Cuba.

A third process was the engagement of lawyers residing on the island in political activities against Spanish colonialism. During the liberal triennium, there was an independentist conspiracy in Cuba organized by lawyers José María Heredia, José Teurbe Tolón, and Martín de Mueces. Some of these were Félix Varela's students. They followed his liberal ideas and got involved in a movement to end Spanish colonialism known as *Soles y Rayos de Bolívar*.²⁴⁶ As a result, lawyers were identified as political activists and some of these conspirators were sent into exile by 1823. José María Heredia, for example, was mentioned earlier as he moved to Mexico and remained in that country thereafter, while José Teurbe Tolón and Martín de Mueces went into exile to the United States and

²⁴⁴ Julio Carreras, *Historia del Estado y del Derecho en Cuba* (Editora Política, 1981), 157. For additional information see José María Chacón y Calvo, *El Padre Varela y la autonomía colonial*, Editorial Molina, La Habana, 1935.

²⁴⁵ *Ibid*, 158.

²⁴⁶ *Cuba: Economía y Sociedad*, Vol. 7 (Editorial San Juan, 1868), 88. An article in this piece listed the leaders of the movement including the lawyers and public officials José Teurbe Tolón and Martín de Mueces.

suffered the confiscation of their properties on the island.²⁴⁷ These events, although unsuccessful, demonstrated the key role that lawyers could play in the political affairs of Spanish America, as well as the royal interest to keep a cap on their number to prevent further political dissent and confrontation.

A fourth event that involved lawyers and related to liberalism was the judicial reform that included the creation of a new *Audiencia* in Havana. In a letter dated August 27th, 1821, the *Intendente General de Hacienda* in Cuba, D. Pelegrin, submitted to the Crown the report by *oidor* Juan Nepomuceno Arocha. This testimony analyzed the reasons to relocate the *Audiencia* of Puerto Príncipe to Havana. In Arocha's opinion, the *Audiencia* of Puerto Príncipe was only established in this location based on its geographical position at the center of the island. As a result, though, the *Audiencia* was located far from where it was really most needed, that is in Havana, close to courtrooms, corporations, offices and related colonial authorities. Arocha also mentioned that Havana accounted for a higher population than Puerto Príncipe, and would benefit from an *Audiencia* in the city for trials and appellations, avoiding delays in the administration of justice and helping to reduce the overpopulation of prisons. Finally, regarding attorneys, Arocha explained that the *Audiencia* in Havana was necessary to exert direct control over the lawyers in the city where *picapleitos* propagated, and corrupted *letrados* involved *vecinos* in frivolous claims generating unfair lawsuits with the purpose of multiplying their fees.²⁴⁸

²⁴⁷ AHN ULTRAMAR 4364 Exp. 1, Order returning his confiscated property to Martin Mueces; ULTRAMAR 4417 Exp. 44 Request of payment of debt from *infidente* Martin Mueces; ULTRAMAR 4774 Exp. 34. Order returning his confiscated property to Martin Mueces.

²⁴⁸ ANC, Fondo Reales Ordenes y Cédulas, Legajo 65, Orden 17, Order dated October 10th, 1820 about moving *Audiencia* of Puerto Príncipe to Havana.

Local deputies in Puerto Príncipe opposed the proposal to relocate the *Audiencia* and reclaimed the honor to preserve this court in their territory.²⁴⁹ The Spanish Crown, however, started a gradual modification of the court system in the island. At first, Ferdinand VII decided to preserve the *Audiencia* of Puerto Príncipe and ratified some of its chambers in his Royal Order dated August 4th, 1822.²⁵⁰ On the other hand, he also ordered open a new *Audiencia* in Havana on November 29th, 1822, dividing the caseload between both courts.²⁵¹ The existence of a new tribunal created more work for attorneys in Havana and, ultimately, favored the concentration of an increasing number of lawyers in that city.

After the establishment of the *Audiencia*, a new market for lawyers opened up in Havana. The number of clients in need of legal advice or representation increased and, thus, the number of lawyers multiplied in a few years. From 136 attorneys listed for Havana in the *Guía de Forasteros* of 1822, the amount increased to 202 in the same publication of 1824.²⁵² At the same time, the Spanish Cortes backed the legal access of more individuals to liberal professions including lawyers and medical doctors on June 8th, 1823.²⁵³ This was

²⁴⁹ ANC, Fondo Gobierno General, Legajo 488 Orden 25086, Compilation of documents filed by representatives of Puerto Príncipe opposing to the relocation of the *Audiencia* to Havana.

²⁵⁰ ANC, Fondo Reales Ordenes y Cédulas, Legajo 68, Orden 38. Order about the creation of a new chamber in the of Puerto Príncipe.

²⁵¹ ANC, Fondo Reales Ordenes y Cédulas, Legajo 68, Orden 142, File concerning to the creation of the *Audiencia* of Havana.

²⁵² *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1822), 181 – 185; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1824), 124 – 129.

²⁵³ Decree of the Spanish Cortes dated June 8th, 1823, included in J. Escriche, *Diccionario razonado de Legislación y Jurisprudencia*, Vol. 2, (Madrid, 1847), 23; cited by Carlos Tormo Camallonga, *El Colegio de Abogados de Valencia: entre el Antiguo Regimen y el liberalism* (Universidad de Valencia, 2004), 345. “Los abogados, medicos y demás profesores aprobados, sean de la profesión científica que fueren, pueden ejercerla en todos los puntos de la monarquía sin necesidad de adscribirse a ninguna corporación o colegio particular, y solo con la obligación de presentar sus títulos a la autoridad local. Los abogados y medicos deberán desempeñar por repartimiento los cargos a que estaban sujetos los individuos de los Colegios en los asuntos

one of the liberal triennium's last actions proving the close relation between liberal reforms and the breaking with Ancien Régime's control over some professions.

Upon his return to Madrid in 1823, Ferdinand VII started taking actions to regain control over legal professionals. In 1825, likely symbolizing his disdain for any law teachings involving the Cádiz's Constitution, Ferdinand VII removed the licenses granted to practice law during his absences.²⁵⁴ He also established twenty-five as a minimum age to work as lawyer starting in 1827.²⁵⁵ Those restrictions, however, did not prevent the growth of the number of lawyers in Cuba. In 1828, the *Guía de Forasteros* listed 210 lawyers in Havana, a figure that greatly surpassed the cap of 80 lawyers authorized by the King a decade earlier.²⁵⁶

As the number of lawyers kept growing, they started gaining influence over Cuban society, especially as social spaces to talk and debate on legal issues increased. Since the eighteenth century, creole elites would gather in sessions to read, listen to music and speak about cultural manifestations. These meetings, known as *tertulias* or salons, frequently turned cultural debates into political and legal controversies. Beginning as social gathering, *tertulias* started turning into larger intellectual movements without the official control typically exerted over other forums such as the University of Havana or the *Academias de*

de oficio y en los de pobres de solemnidad; pero no en aquellos en que sean parte los establecimientos o las corporaciones que por privilegio sean consideradas como pobres.”

²⁵⁴ ANC, Fondo Gobierno Superior Civil, Legajo 362, Orden 13611. *Auto Acordado* about the revalidation of the degree of lawyers.

²⁵⁵ ANC, Fondo Gobierno Superior Civil, Legajo 74, Orden 192. Royal Orden requiring the minimum age of 25 to present the exam to become a lawyer.

²⁵⁶ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1828), 160 – 166.

Jurisprudencia. Lawyers usually attended these meetings and shared political and legal views within.

Creole lawyers also began publishing articles about law in newspapers. Some of those publications were merely educational and even when they did not introduce any modern notion of law at least they broke the traditional prohibition that colonial authorities had over publications, which included legal matters.²⁵⁷ This was the case of Prudencio Echavarría O’Gavan, who in 1818 wrote “Satire against the predilection to teach Roman Law in our classrooms and tribunal.” In his article, O’Gavan defended the notion of *Derecho Patrio* questioning the role of the Roman Law in modern legal and political systems, a manifestation of his liberal thinking. Years later, José Antonio Saco published a personal translation of “Inercio’s Roman law” in the newspaper *El Mensajero Semanal*, between 1824 and 1833, making public the knowledge of a work traditionally reserved for jurists and law students.²⁵⁸ Therefore, modern ideas started surfacing in Cuban journals, and forms of liberalism manifested among Creole legal professionals.

Other publications with a liberal and somewhat revolutionary tone started circulating across the island, many of them managed and written by lawyers. Between 1820 and 1822, José Sotero Aguiar González de Ara published the newspaper *El Tío Bartolo*, focused on social and political critiques. It was mostly dedicated “to criticize the acts of the government with sarcasm and severe acrimony.”²⁵⁹ Conservative censorship from Havana

²⁵⁷ About the development of the publications of newspapers in Cuba during the nineteenth century, see José María Aguilera Manzano, *Las corrientes liberales habaneras a través de las publicaciones periódicas de la primera mitad del siglo XIX*, Cuban Studies, Vol. 38 (University of Pittsburgh Press, 2007), 125 – 153.

²⁵⁸ López Mesa, Enrique, *Algunos aspectos culturales de la comunidad cubana de New York durante el siglo XIX*. Centro de Estudios Martianos, La Habana, Cuba, 2002, 64.

²⁵⁹ Juan Arnao, *Páginas para la historia de Cuba*, (Imprenta la Nueva, Habana, 1900), 61.

accused this newspaper of being “the filthiest that can be written in common language.”²⁶⁰ Another attorney, Juan José Hernández, published a booklet containing the phrase: “The island of Cuba burns like another Troy: horror, death and desolation, war and extermination, rather than yielding to the atrocious and barbarous despotism.”²⁶¹ This note was an incitation to political unrest and change in the Spanish colony, and another example of the spread of liberalism in a public call for change by the inhabitants of the island.

Attempting to control the political media, Spain forbade the circulation of newspapers, but still allowed literary publications. This restriction led to the formation of a Permanent Commission of Literature populated mostly by lawyers that also were renowned members of Cuba’s intelligentsia such as Domingo del Monte, Manuel González del Valle, José de la Luz y Caballero, Ignacio Valdés Machuca, Agustín Govantes, Blas Osés, Felipe Poey and Prudencio Hechevarría, among others. This Commission promoted and organized literary workshops and conferences that often ended in political debates and continued fomenting revolutionary ideas.²⁶² In spite of Spanish efforts, Cuban lawyers continued seizing local media and gradually controlling the public space in the colony.

The active political engagement of lawyers in colonial Cuba determined that more of them followed the path of *Soles y Rayos de Bolívar* and involved them in a new conspiracy for the independence of Cuba. Between 1830 and 1832, *habanero* lawyer, Manuel Rojo, a former disciple of Varela, became involved in a new plot against Spanish colonialism

²⁶⁰ Vicente Bas Cortes, *Cartas al Rey acerca de la Isla de Cuba* (Librerías de Abraido y la Cruz Verde, Habana, 1871), 174.

²⁶¹ Arnao, 61.

²⁶² Aguilera Manzano, 135.

known as *Águila Negra*.²⁶³ This was a Masonic movement initiated in Mexico in 1826, which organized itself to extend to Cuba in 1830, and Rojo was its coordinator and person of contact on the island.²⁶⁴ Spanish authorities found out about the conspiracy and crushed the movement having Rojo prosecuted by a military commission and exiled to Extremadura for ten years.²⁶⁵ Although this conspiracy failed, it showed again the central role of lawyers in the fight against colonialism, and the aspirations of change extant among Creoles. It also affirmed the professional and ideological connections between lawyers on the island and those in Mexico.

In spite of the mandate to exert control over the lawyers in Cuba, an association for lawyers did not open in Havana at that time. The only apparent effect of the 1819 Royal Order was that, although there is no reference to any formal *Colegio de Abogados* in Havana, the senior lawyers of the city started appearing in the *Guías* in 1826 as the Dean (*Decano*) or Deputy (*Prodecano*). This does not mean that a *Colegio* existed, but it did constitute a mere formal recognition of the seniority of the oldest lawyers, as provided in the Royal Order.²⁶⁶

The Royal Order of 1819 also involved the creation of a second *Academia de Jurisprudencia*. On March 20th, 1831, eleven years after the appointment of the

²⁶³ AHN, ULTRAMAR 1613 Exp. 8, Communication from the representative of Spain in the United States to the Captain General of Cuba informing that Jose Solis, natural from New Orleans and resident in Havana, is one of the Mexican rebel agents who intends to proclaim the independence of the island.

²⁶⁴ *Cuba: Economía y Sociedad*. Vol. 7, (Editorial San Juan, 1868), 112 – 113.

²⁶⁵ AGI, ULTRAMAR 51 N.17, Criminal file of Manuel Rojo.

²⁶⁶ The first of these Deans were D. Domingo Manuel Conde in 1826, and José María Pumarejo between 1828 and 1830. See *Guia de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1826), 157. *Guia de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1828), 160; *Guia de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1829), 128; and *Guia de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1830), 128.

commission, the newspapers of Havana finally announced the opening of the *Real Academia Teórico y Práctica de Jurisprudencia* in this city.²⁶⁷ Some of its faculty members were among the oldest lawyers of the city, who also held other positions in local academic institutions or in the judicial system such as Luis Hidalgo Gato. The President (*Rector*) of the University of Havana and the Dean of the Faculty of Philosophy, Hidalgo Gato, had started working as a lawyer in 1777, and was too old to actively continue by this time. Thus, he excused himself from any position in the new *Academia* in 1831.²⁶⁸ This decision opened the opportunity for a younger scholar, José Agustín Govantes, who was appointed to direct the *Academia*. In contrast to Hidalgo Gato, Govantes had started his legal practice in 1823 and was Chair of Jurisprudence of the *Colegio Conciliar de San Carlos y San Ambrosio*, an institution already tied to liberal thinking following Varela and his disciples.²⁶⁹ A similar process might have affected the rest of the original staff of the *Academia* when only two years after its inauguration, in 1833, there was only one lawyer who appeared to have graduated during the early 1800s: the Director Juan Ignacio Rendón Zuazo. The rest of *Academia's* faculty graduated between 1820 and 1822: President

²⁶⁷ ANC, Fondo Gobierno Superior Civil, Legajo 327, Orden 11141. File for the formation of the *Academia de Jurisprudencia* in Havana. A Director, a President, a Vice-president, two fiscals, a treasurer, two secretaries, and a janitor composed the staff of the *Academia*. Francisco de Paula Vilches, Juan Ignacio Rendón, Luis Hidalgo Gato, Francisco del Calvo, Indalecio Santos Suarez, Ignacio Crespo y Ponce, Matías de Meza, José Agustín Govantes and Valentín Reyes, respectively. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1832), 150.

²⁶⁸ ANC, Fondo Gobierno Superior Civil, Legajo 327, Orden 11141. File for the formation of the *Academia de Jurisprudencia* in Havana. *Guía de Forasteros en la siempre fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1818), 167; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1820), 167; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1822), 136; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1824), 172; *Guía de Forasteros en la siempre fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1826), 228; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1831), 91 and 97.

²⁶⁹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1831), 132 and 135.

Francisco del Calvo, Vice-president Indalecio Santos Suárez, Fiscal Matías de Meza, and Secretaries Manuel Martínez Serrano and Andrés Rodríguez.²⁷⁰ All indications point toward this time being opportune for how a younger generation of lawyers to assume key posts within colonial society and, especially, in institutions dedicated to legal training.

Also in 1831, a third command of the Royal Order of 1819 was fulfilled: the *Audiencia* of Puerto Príncipe created the *Colegio de Abogados* of this city by *Auto Acordado* of May 29th.²⁷¹ It was the first institution of its kind officially constituted on the island; and, in accordance with the Royal Order, the *Colegio de Puerto Príncipe* was comprised of 24 members including both its Board of Directors and *colegiados*.²⁷² This number of lawyers was small considering that the city had a significant concentration of lawyers who used to work in the *Audiencia*. Ferdinand VII, however, had set a cap of 24 lawyers in Puerto Príncipe seemingly by mistake, because according to his own correspondence of 1832, he actually meant 80 *colegiados* for this town.²⁷³ In any case, the *Guía of Forasteros* of 1832 listed 47 lawyers working in the city of Puerto Príncipe that year. Hence, many of the city's

²⁷⁰ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1833), 162.

²⁷¹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1832), 150.

²⁷² The Dean of the *Colegio* was Ignacio Agramonte y Recio, the secretary was Manuel de Monteverde and the vice-secretary José Serapio Mojarrieta. It had a treasurer, Gregorio de Quesada, and a *promotor fiscal* accountant, Domingo Sterling. The *Colegio* also had three *conciliarios*, Francisco Antonio de Velasco, Manuel Carmona and Francisco de Iraola, and six examiners, Antonio del Abad, Manuel María de Piña, Pablo Antonio Ronquillo, Juan Recio Aróztegui, José Calixto Bernal and José María Morilla. The rest of the regular members were Juan Nepomuceno de Arredondo, Antonio Herrera, Melchor Batista, José María Agramonte, Francisco Pichardo, Gregorio de Quesada, José Joaquín Lopez, José Agustín del Castillo, José Vicente Estévez, Bonifacio del Valle and José Vicente Mora. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1832), 150 - 151.

²⁷³ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87, Orden 31, Letter about the number of lawyers in the Audiencias.

lawyers, almost half, were not able to become members of the *Colegio*, which at that moment became a limitation to practice law in the jurisdiction.

Having established the *Colegio de Abogados* in Puerto Príncipe, the Spanish government urged the enforcement of the legislation to reduce the number of legal professionals. On May 22nd, 1832, the King issued a Royal Decree ordering the enforcement of the laws for the reduction of lawyers in Cuba.²⁷⁴ Consequently, on May 24th, 1832, Governor Mariano Ricafort received a letter from Madrid ordering him, and the *Royal Audiencia*, to start reducing the number of lawyers.²⁷⁵ In a communication also dated May 24th, 1832, authorities from Madrid accused the lawyers in Havana of being the source of “many problems” in the city, a general term that could have moral, professional, or political connotations. For that reason, the letter demanded from Ricafort the reinstatement of prohibitions to revalidate degrees of law in Cuba as well as to prohibit the practice of law by *naturales* from the island, as established in the Royal Orders of November 20th, 1784 and March 29th, 1789.²⁷⁶ These two Royal Orders had been abrogated since 1819, but the Spanish government continued returning to them as a legal mechanism to prohibit Cuban born candidates to become lawyers.

Only two days later, on May 26th, 1832, Ferdinand VII sent yet another letter establishing his final policy regarding lawyers in Cuba. In this new communication,

²⁷⁴ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87, Orden 31, Letter about the number of lawyers in the Audiencias.

²⁷⁵ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87, Orden 28, Letter about how to fix the number of lawyers in Cuba.

²⁷⁶ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87, Orden 29. Both royal orders had been derogated by another Royal Order of September 4th, 1819, which did not seem to be regarded as an obstacle to insist on their enforcement.

Ferdinand VII affirmed his Royal Order of September 4th, 1819, authorizing the establishment of the *Colegios* and the *Academias de Jurisprudencia*. Once again, the King declared his intention to support the legal profession in Cuba, while protecting its honor and prestige. He stated, however, that these institutions were indispensable to reduce the number of lawyers, not only because of their political involvement, but also to avoid the social problems they were causing across Cuban society. Such problems included professional ineptitude, fraud, and corruption. Ferdinand VII also asked the *Audiencia* to enforce the requirements for legal practice: six years of accredited practice upon graduation of *Bachiller*, and two years of continued attendance to the *Academia de Jurisprudencia*, either in Havana or Puerto Príncipe.

In his letter, the King also referred in his letter to the number of lawyers to be admitted by each *Colegio of Abogados*.²⁷⁷ Ferdinand VII said: “it was commanded that those who graduated as lawyers accredited six years of practice from the date of the *Bachiller* degree, two of them of continuous assistance to the *Academia de Jurisprudencia* that was to be established in Havana, or to the one that already existed in Puerto Príncipe, arranging likewise the *Colegio de Abogados* prescribed for both cities with the number of 24 individuals the former and 80 the latter.”²⁷⁸ Apparently, the King modified the Royal Orders of 1816 and 1819 because he changed his original allocations of lawyers to 24

²⁷⁷ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87, Orden 31, Letter about the number of lawyers in the *Audiencias*.

²⁷⁸ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87, Orden 31, Letter from Ferdinand VII dated May 26th, 1832, to Captain General in Havana: “se mandó que los que se recibiesen de abogados en la misma sala acreditasen precisamente 6 años de practica desde la fecha del grado de Bachiller, dos de ellos de continua asistencia a la Academia de Jurisprudencia que debía establecerse en La Habana, o a la que ya existía en Puerto Príncipe, arreglando así mismo los Colegios de Abogados prescritos para ambas ciudades con el número de 24 individuos el de la primera y de 80 el de la segunda.”

lawyers for Havana and 80 for Puerto Príncipe. This correction could constitute a political move of Ferdinand VII pretending to concentrate lawyers out of the capital where most of the political debates and conflicts were taking place, or it could just be a simple mistake. In any case, there was no *Colegio* in Havana, and the *Audiencia* never allowed 80 members to the *Colegio* of Puerto Príncipe.

The letter of May 26th, 1832, included something else. It contained a special request to the *Audiencia* to reinforce its control over the lawyers to be admitted to practice. According to Ferdinand VII, the *Audiencia* should not allow any lawyer without all the requirements. In the past, the *Audiencia* of Santo Domingo had granted law students and other candidates with incomplete applications the authorization to practice law, but the official policy stating that the number of lawyers was excessive made this custom inconsistent and eventually, it was abandoned.²⁷⁹ A few months later, the *Audiencia* confirmed that *oidores* were following the new policy. In a letter to the Captain General of Cuba dated November 9th, 1832, the Spanish government referred to the case of Felipe Fernando de Castro when this candidate did not present the official diploma of Bachiller with his application. His permission to practice law was denied by the *Audiencia* on April 7th, 1831, along with the option to amend the omission by the testimony of witnesses. The authorization got postponed until his production of the original diploma.²⁸⁰ It seems that the restrictions to practice law in Cuba were actually being enforced.

²⁷⁹ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87, Orden 31, Letter Letter from Ferdinand VII dated May 26th, 1832, to Captain General in Havana about the number of lawyers in the *Audiencias*.

²⁸⁰ ANC, Fondo Reales Ordenes y Cédulas, Legajo 88, Orden 19. Letter forbidding to receive lawyers in the *Audiencias* without fulfilling all the legal requirements.

Finally, the letter of 1832 addressed the impact of the strategy to limit the number of lawyers in each *Colegio*, in particular the situation of those lawyers that were left out of practice. Ferdinand VII ordered that those who were over the established limit could not practice as lawyers, especially in Puerto Príncipe or Havana, and should relocate to neighboring towns. “That those [lawyers] who do not fit in these [*Colegios de Abogados*] by the rigorous order of seniority of their revalidation (...), would be destined to the other towns of the island, as the *Audiencia* deems best, conciliating public service and the least discomfort of the interested parties.”²⁸¹ Otherwise, lawyers should wait for availability in the quota of the city, especially Havana, taking public positions or other activities different to legal representation. The *Guía de Forasteros* for 1834, consequently, published the list of lawyers in Havana, as usual, but it included a new column: a list of those received as lawyers but that could not practice yet.²⁸²

²⁸¹ ANC, Fondo Reales Ordenes y Cédulas, Legajo 87. Orden 31. “Que los que no tengan lugar en estos por el orden riguroso de antigüedad de su revalida (que deberá observarse así al tiempo de la organización de los mismos *Colegios* como en las vacantes sucesivas), se destinen a los demás pueblos de la Isla, según mejor parezca a la *Audiencia*, conciliando el servicio público y la menor incomodidad de los interesados.”

²⁸² This list included Juan Escoto Ruiz, Jose Maria Galdos, José Camilo Granados, Manuel Lopez Hidalgo, Jose Joaquin Leal, Joaquin Maria de Orue, Anastasio Vicente de Palma, Luis Perez Angueira, Fernando Rodriguez Parra, Jose Casimiro de Tagle and Ignacio Vicente de Zayas. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1834), 150.

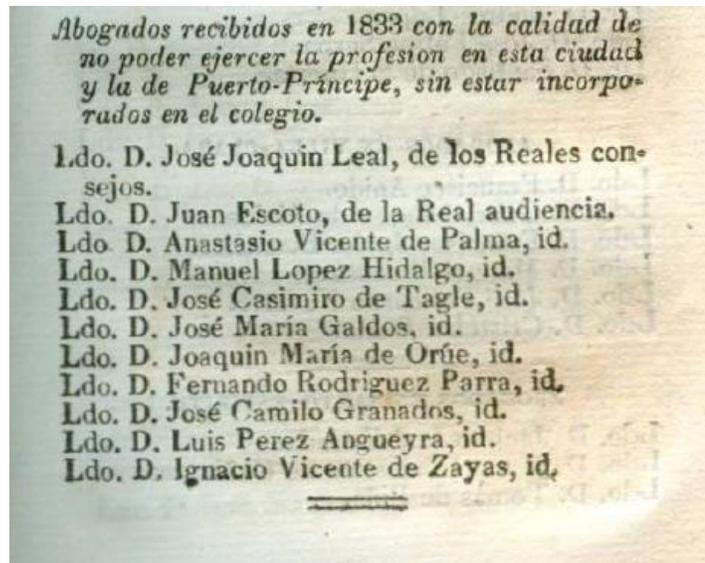


Table No. 6 Excerpt from the Guía de Forasteros, 1834.

During the time that the prohibition and the system of quotas lasted, a significant number of lawyers started moving from Havana to other towns looking for public positions, clients, and businesses opportunities. Between 1820 and 1835, at least eighty lawyers relocated across the island. The largest majority of them moved from Havana to other towns, and very few returned to the capital during this period. The reasons for relocation were multiple. Some of them moved to take official positions in other towns such as Prudencio Hechavarría O’Gavan who returned in 1824 to his hometown, Santiago de Cuba, as *Teniente Gobernador*; and José María Álvarez who accepted an appointment as fiscal of Matanzas in 1828.²⁸³ The largest majority, however, seem to be attorneys at law who established their practice in new urban centers with lower control over the practice of lawyers, and where they were needed because of the growth of population and trade.

²⁸³ AGI, ULTRAMAR 36, N.19, Professional file of Prudencio de Echavarría y O’Gavan, *vecino* of Havana, requesting honors of oidor from the *Audiencia*.

Many smaller towns and recently founded cities received lawyers that relocated from Havana. The primary recipient of this population was the city of Matanzas, the second largest town in western Cuba and close to Havana, which hosted at least twenty new lawyers between 1825 and 1835.²⁸⁴ The second region that received the largest number of lawyers was Las Villas where eighteen attorneys moved into: five lawyers to Trinidad, four lawyers to Santa Clara, four lawyers to Cienfuegos, three to Sancti Spiritus, and two to Remedios.²⁸⁵ Some small towns in western Cuba also welcomed lawyers coming from Havana: five lawyers to Santiago de las Vegas, four lawyers to Güines, three lawyers to Bejucal, two lawyers to Guanabacoa, one lawyer to Santa María del Rosario, and also one lawyer to the westernmost city of Pinar del Río.²⁸⁶ The smaller group moved to Eastern Cuba, when only a total of three lawyers migrated from Havana to Santiago de Cuba, all of them to occupy official positions in this city.²⁸⁷ Thus, the relocation of lawyers across

²⁸⁴ See *Guías de Forasteros de la Siempre Fiel Isla de Cuba* between 1825 and 1835. Joaquín García Palacios moved to Matanzas in 1826, José María Álvarez, Francisco Encinoso de Abreu, Juan Antonio de Garmendia, José María Govín, José Ignacio Heredia Campuzano, Antonio María Lazcano Palacio, Bernardo Marino Navarro Pedraja, Jacobo de los Reyes Gavilán, Nicolás de la Rueda, José Modesto de la Vega, Juan José Vinajeras Cruz in 1830, Dionisio Vicente María Matamoro in 1831, Manuel Cárdenas Cárdenas and Francisco Ponce de León Maroto in 1833, José Antonio Benavidez, Félix Crucet Azua and Domingo del Monte and José Pérez Machín in 1835.

²⁸⁵ See *Guías de Forasteros de la Siempre Fiel Isla de Cuba* between 1825 and 1835. Those lawyers were Gaspar Arredondo, Francisco Javier Bonachea, José Gregorio Díaz de Villegas, Bartolomé Mendigutias, Juan Pablo Morales, José Policarpo Navarro, Rafael Pérez Salomón, José Ramón Varona, Francisco Anido, Gabriel Suárez del Villar Sánchez, Ramón Cordovéz, Bernardo de Rivas, Mariano Vargas Sánchez, Nicolás Jacinto Acea, Antonio María Angulo Heredia, Gaspar Arredondo and Juan José García Quiroga.

²⁸⁶ See *Guías de Forasteros de la Siempre Fiel Isla de Cuba* between 1825 and 1835. Those lawyers were: Antonio Aranda and Rafael Calvo Villegas in Guanabacoa; Francisco Rey Bravo, Francisco José de Quesada, Antonio López, Alfonso Wading Cárdenas and Joaquín de la Vega to Santiago de las Vegas; Juan Quintín Renté, Antonio Valdéz Landín, Antonio Veguer and José Clemente Castellanos to Güines; Antonio Benevento, Rafael Antonio de la Maza and José de la Luz Portela to Bejucal; Antonio Languenhein to Pinar del Río, and José Pérez Machín for few months to Santa María del Rosario.

²⁸⁷ See *Guías de Forasteros de la Siempre Fiel Isla de Cuba* between 1825 and 1835. Those lawyers were Prudencio Hechavarria O'gavan in 1824, Leonardo Bravo in 1828, and Juan Antonio Zarraga in 1829.

Cuba indeed disseminated some of the lawyers established in Havana contributing to increase the concentration of legal professionals in places other than the capital and Puerto Príncipe. To be sure, these two cities similarly received lawyers from other parts of Cuba between 1825 and 1835: five in Havana and seven in Puerto Príncipe, although they were mostly officials who had to move to assume their positions in the public administration and courts.²⁸⁸

Since the right to inscribe in the *Colegios* was based on seniority, mostly young and recently graduated lawyers, educated under the influence of liberal ideas, left the largest cities for smaller towns. Some of them became promoters of reform in colonial Cuba. Francisco Anido, for example, left Havana for Santa Clara to avoid political surveillance in 1829, and started acting as reporter for the liberal *Eco de Santa Clara* in 1831.²⁸⁹ Leonardo Bravo, another lawyer from Havana, moved to Santiago de Cuba in 1828 becoming mayor of this city with a liberal program that motivated conservative residents to request his destitution claiming that he was “wicked and corrupt against the altar and the throne.”²⁹⁰ Appointed the *Regidor* of Baracoa shortly after, Bravo was even urged in 1831 by the members of this *Ayuntamiento* to congratulate Queen María Cristina when Princess Isabel II was born, because, perhaps as a show of his antimonarchical ideas, he had not

²⁸⁸ See *Guias de Forasteros de la Siempre Fiel Isla de Cuba* between 1825 and 1835. Those lawyers were José Ramón Betancourt, Nicolás Izquierdo, Gabriel José Gelabert, Manuel Antonio Ramos, and Domingo del Monte (returning from Matanzas in 1831) to Havana, and Francisco José de Quesada, Francisco José Sánchez, Manuel Antonio Ramos, Gabriel José Gelabert (returning after his appointment in Havana), Luis Francisco Alan, José Ramón Varona and José de Jesús Fernández to Puerto Príncipe.

²⁸⁹ Raimundo Cabrera, *Cuba y América: Revista Ilustrada, Historia de las Letras Villalareñas*, Vol. 7, Issues 100- 105 (Habana, 1901), 456.

²⁹⁰ AHN, ULTRAMAR 1645 Exp. 6, ULTRAMAR 1620 Exp. 12, ULTRAMAR 1613 Exp. 15, ULTRAMAR 1612 Exp. 12. Leonardo Bravo requests the position of oidor in the Audiencia of Cuba, and, posteriorly, counselor of the government of the island.

made any public or official announcement about this notable event.²⁹¹ Another case was the liberal activist José María Casal Bermúdez, who frequently participated in political meetings in Havana, and moved to Matanzas in 1830, where he continued organizing similar activities and created a way of communication between the liberal lawyers of Matanzas and the capital.²⁹² A last example is Bernardo Marino Navarro Pedraja, who was sent into exile because of his participation in liberal conspiracies in Havana, and was only authorized to return to the island in 1828 to establish himself in Matanzas, where he continued participating in liberal activities.²⁹³ Therefore, the relocation of lawyers across the island indirectly triggered the spread of liberalism through the Cuban countryside.

The obstacles to becoming an attorney turned into a major issue for recently graduated students of law who wanted to pursue a career in Havana, including those belonging to elitist families. The case of Bernardo Hechavarría O’Gavan provides an example of how these restrictions reached the most prestigious families of colonial Cuba. Bernardo was the younger son of Prudencio Vicente Hechavarría Agüero, *oidor* de la *Audiencia* de Puerto Príncipe and *Teniente Gobernador* in Santiago de Cuba.²⁹⁴ Bernardo’s mother, Manuela Josefa O’Gavan Guerra, was daughter to the Spanish official of noble ancestry Bernardo O’Gavan Nandiz, and sister to Juan O’Gavan Guerra, creole politician

²⁹¹ AHN, ULTRAMAR 1621 Exp. 42, Bill of the *Ayuntamiento* of Baracoa, requesting to the regidor Leonardo Bravo to felicitate the Queen on their behalf because of the birth of the princess.

²⁹² Vidal Morales Morales, *Iniciadores y primeros mártires de la Revolución Cubana* (Avisador Comercial, Habana, 1901), 345.

²⁹³ AGI, ULTRAMAR 346 N.83, Personal file of Bernardo Marino Navarro.

²⁹⁴ Jacobo de la Pezuela, *Diccionario geográfico, estadístico histórico de la Isla de Cuba*, T. III (Imprenta del Establecimiento de Mellado, Madrid, 1863), 395 – 396.

and Cuban Depute to the Cortes of Cádiz.²⁹⁵ Bernardo's great-grandfather was the former *Regidor* of Santiago de Cuba José Hechavarría and his grandfather was *oidor* and secular official of the Inquisition, Ramón Hechavarría Garsón. His uncle was the presbyter Santiago José Hechevarría, a member of the ecclesiastical courts and Bishop of the Diocese of Santiago de Cuba after 1770.²⁹⁶ His brother Prudencio Hechavarría O'Gavan was a jurist in Havana who had already shown his liberal thinking in periodical publications, while also holding the positions of *Teniente Gobernador* in Santiago de Cuba in 1824, general advisor of the local government, and Auditor of War by 1836.²⁹⁷ Hence, Bernardo belonged to a family with strong social and political ties, deeply and traditionally linked to the religious and political establishment of the island.

Despite his family connections, upon his graduation in 1832 Bernardo Hechavarría O'Gavan did not receive authorization to establish himself as an attorney in Havana, where he intended to reside. Bernardo started sending letters to the officials of the colonial establishment including members of the *Audiencia* and the government, asking for an exception. Between October and December of 1832, the case reached the Havana *Cabildo*, the *Audiencia*, and even the Governor, who sent the case to Madrid. Finally, the Spanish government returned the case to the island in January of 1833 with the request to comply with the current legislation. The *Audiencia* of Puerto Príncipe, hence, reiterated the

²⁹⁵ Pezuela, 397.

²⁹⁶ Pezuela, 395 – 396; Guillermo Lohnman Villena, *Los Americanos en las órdenes nobiliarias* (Editorial CSIC – CSIC Press, 1993), 241; and Francisco Javier de Santa Cruz y Mallen, Conde de San Juan de Jaruco, *Historia de las familias cubanas*, Vol. V, Editorial Hercules, La Habana, 1944.

²⁹⁷ AHN ULTRAMAR 1615, Exp. 51, Report of Ignacio Zarragotia Jauregui from 1836 explaining the conflict of interest caused by Prudencio Hechevarria while holding three public positions, *teniente gobernador*, *asesor general* and *war auditor* in Santiago de Cuba, and the harm and corruption derived from his actions.

decision on January 12th, 1833, stating that they would assure the petitioner would know the King was “very well penetrated by the good intentions and noble sentiments (...), and that this tribunal abounds in the same ideas for the conservation and strict administration of justice [in Cuba].”²⁹⁸ Consequently, Bernardo’s request was declined. Yet, probably through his family connections, Bernardo was able to become appointed *síndico procurador* in Havana between 1833 and 1835, and posteriorly manager of the Royal House of Patrimony in 1836, after the death of his brother Prudencio’s father-in-law, the late former *oidor* Juan Ignacio Rendón Sarmiento.²⁹⁹ In a show of his frustration, Bernardo Hechavarría even wrote the essay “The difficulties to become an attorney in Havana” in 1832, where he unveiled the difficulties to become a lawyer in colonial Cuba.³⁰⁰ Later in his life, Bernardo became a moderated liberal within the Spanish government that, while supporting slavery and Cuban dependency toward Spain, criticized the administration of justice and government of the island. He expressed these ideas in his major liberal work, “Judicial abuses in Havana,” in 1842. Nevertheless, Bernardo followed his familial path and made a political career under Spanish liberalism becoming Marquez of O’Gavan in 1857, and Senator *per life* in Madrid in 1859.³⁰¹

The limitation also affected lawyers who had relocated or wanted to relocate to the island. That was the case of Domingo Enrique Díaz Páez, former *justicia mayor* in Santo

²⁹⁸ ANC, Gobierno Superior Civil, Leg 327 Exp. 11142.

²⁹⁹ Pezuela, 397 – 398; and Cowley, 248.

³⁰⁰ ANC, Gobierno Superior Civil, Leg 327 Exp. 11142.

³⁰¹ Pezuela, 398.

Domingo who established himself in Santiago de Cuba after the Haitian Revolution.³⁰² In 1832, Díaz was excluded from the quota to work as a lawyer, which led him to request an exception for his case in the enforcement of the Royal Order that forbade lawyers to establish themselves in Cuba. Diaz's request was also denied, along with his claim for a Doctoral Degree in Law from the University of Havana.³⁰³ Therefore, Díaz started looking for a solution in the public sphere, applying for positions not only in the government of Cuba but also in Puerto Rico, based on claims of loyalty and support to the Spanish Crown.³⁰⁴ On March 2nd, 1833, consequently, Díaz relocated to Puerto Rico after the Council of Indies appointed him as legal advisor of the government on that island, a position that could sound desirable and probably well-paid, but was far from his initial intentions to remain in Santiago de Cuba.³⁰⁵

In both cases, Bernardo Hechavarría O'Gavan and Domingo Enrique Díaz Páez, the *Audiencia* enforced the limitations concerning the number of lawyers ordered by Ferdinand VII. Those quotas, however, rapidly became unrealistic and insufficient, while the number of lawyers kept increasing. In many cases, the *Guías* showed that those lawyers

³⁰² AHN ULTRAMAR 1611, Exp. 22 File containing the application of Domingo Diaz Paez for a position in 1833 including his record of merits that mentions that he held the position of *justicia mayor* in Santo Domingo before he migrated to the city of Santiago de Cuba after the Haitian Revolution; and *Guías de Forasteros de la Isla de Cuba, 1829 – 1833*.

³⁰³ AHN ULTRAMAR 1611, Exp. 22 File containing the application of Domingo Diaz Paez including his claims for a public position based on loyalty and adhesion to the Spanish Crown; AHN ULTRAMAR 2011 Exp. 6 Formal request of Domingo Diaz Paez of his record of merits from previous applications to continue applying for public office.

³⁰⁴ AHN ULTRAMAR 1619 Exp. 9 File formed for the request of Domingo Enrique Diaz Paez to be excluded from the application of the Royal Order that forbade the reception of lawyers in the island of Cuba and a Doctorate Degree from the University of Havana.

³⁰⁵ AHN ULTRAMAR 2010 Exp. 17 Appointment of Domingo Enrique Diaz Paez as *asesor ordinario* *teniente letrado*, among others positions, for the local government of the island of Puerto Rico, dated March 2nd, 1833.

who initially were banned to practice received the authorization shortly after and stayed in Havana working in law firms, or occupying public positions within the colonial government. The public sector became a solution for many that did not fit within the quota. As Uribe-Urán explains, becoming members of the local bureaucracy was a common pattern among creoles in South America, and Cuba was not an exception to this rule. Spanish American lawyers traditionally wanted to become part of the colonial establishment, and occupy positions that not only provided prestige and wealth, but also a public post that functionaries could pass on to other members of the family.³⁰⁶

By 1833, every city of Cuba had more lawyers than those initially authorized. In the cases of Havana, Matanzas, Santiago de Cuba and Puerto Príncipe the number was more than three times higher. Additionally, new settlements established across Cuba that were not included in the King's proposal, while other former small towns started growing. These were the cases of Cienfuegos, Pinar del Río, Manzanillo, Sagua, Guantánamo, and Cárdenas, among many others.³⁰⁷ All of them started welcoming lawyers to be part of their administrations, their local courts, or even to establish their private offices.

CITY/ TOWN	Limit in 1816	Lawyers in those cities in 1833
Havana	60	210
Puerto Principe	16	63
Santiago de Cuba	11	37
Bayamo	8	16
Sancti Spiritus	6	16
Trinidad	4	9
Santa Clara	4	6
Holguin	3	4
Guanabacoa	3	5

³⁰⁶ Uribe-Urán, 29.

³⁰⁷ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1833), 148 – 163.

Matanzas	3	19
Remedios	2	2
Güines	1	3
Santiago de las Vegas	1	5
San Antonio	1	2
Baracoa	1	2
TOTAL	124	399

Table No. 7 List of lawyers contrasting the number authorized with their actual number.

As lawyers increased their number across the island, they started creating new professional clusters in the largest cities such as Bayamo, Santiago de Cuba, Trinidad and Matanzas. By the end of the reign of Ferdinand VII there was a *Colegio de Abogados* in Puerto Príncipe, *Academias de Jurisprudencia* in Puerto Príncipe and Havana, and more than 400 lawyers established across the island.³⁰⁸ Considering the King established a system of quotas limiting the number of lawyers in Cuba to 124, his policies clearly failed. Yet, they made evident the colonial contradictions between Ancien Régime's intended constraints to the legal profession and the growing community of legal professionals, while many of them turned into advocates of reform following the echoes of liberalism.

³⁰⁸ Guia de Forasteros de la Siempre Fiel Isla de Cuba (Havana, Imprenta del Gobierno, 1833), 148 – 163.

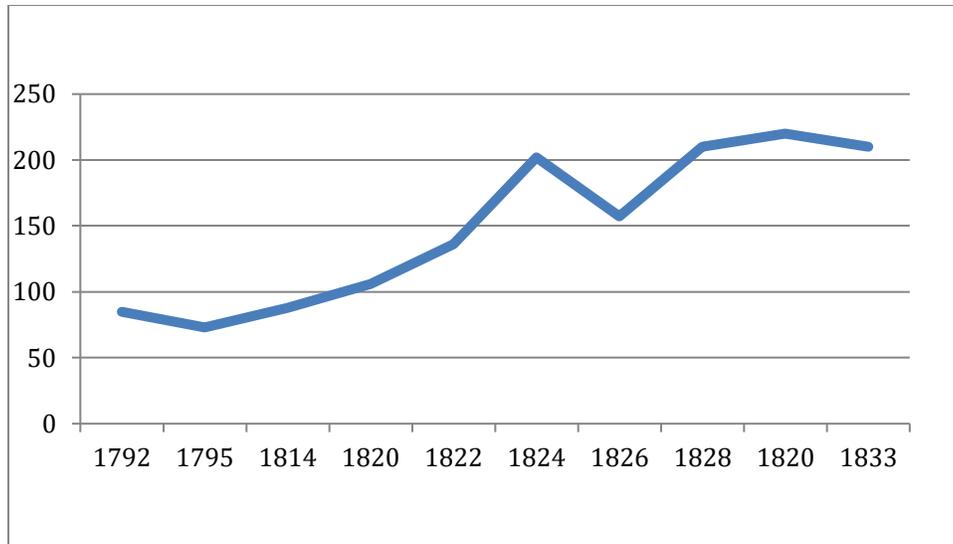


Table No. 8 Number of lawyers in Havana (1795 – 1833)

Conclusion

The number of lawyers in Cuba remained small during most of the colonial period as Spanish policy prevented the expansion of the legal profession for three centuries. Economic, political and legal transformations at the beginning of the nineteenth century, however, favored an increase in the number of lawyers, as well as the official impulse to control them. After multiple failed attempts to contain the growth of the number of lawyers, the Spanish Crown authorized the establishment of the *Colegios de Abogados* and *Academias de Jurisprudencia*. These institutions already existed in the Spanish Empire as a form of gremial corporations; but in the early nineteenth century Fernando VII planned to use them as a mechanism to limit the legal profession's membership. Contrary to his desires, though, lawyers multiplied and spread across the island, an antecedent to the strengthening of the liberal movement in both the Iberian Peninsula and Cuba.

III. CHAPTER 2. Growing Strong: Cuban Lawyers and Their Transformation into a Political, Social and Intellectual Force (1833 – 1867).

During three centuries, Spain pursued a colonial policy toward Cuba that included the control of the number of lawyers on the island. Efforts to concentrate all of legal practice in a reduced number of individuals became a focus at the turn of the nineteenth century when the island's population multiplied in tandem with rapid economic growth. King Ferdinand VII tried to prevent the growth in the number of practicing lawyers by enacting multiple Royal Decrees and Orders, but most of them were ineffective. At the same time, liberal ideas spread across the island, and many lawyers became instrumental in that process. They even led conspiracies against the domination of the Spanish Crown over the island. Although united by a common education around the law and professionally identified with one another, lawyers did not constitute a monolithic group. On the contrary, while some lawyers followed the ideas of liberalism, others remained loyal to Spain, and even others decided to fight for Cuba to become part of the United States. This was the complex scenario characterizing the decades between 1830 and 1860 in Cuba. Divided by those political trends, lawyers illustrate the intricacies of the moment.

Ferdinand VII died in 1833, and his daughter, Isabel, became the new Queen of Spain with the paradoxical support of Spanish liberals. Thus, a new period started with a Spanish government mostly formed by liberal politicians who gradually implemented their enlightened policies throughout the Empire. The application of Spanish liberal policies in Cuba, however, conflicted with the economic interests of the metropolis, especially regarding the abolition of slavery. Besides, many voices reacted to Spain's sluggish policies, including a fair number of Cuban lawyers, who continued to be among the main

promoters of the implementation of liberalism on the island. As a result, and despite Queen Isabel's liberal leaning advisors, Spain increased regulations and controls on the number of lawyers, opening more *Colegios de Abogados* throughout the island and creating conditions for the further regulation of their practice. This new regime liberalized the profession and, although *Colegios de Abogados* proliferated as a mechanism to preserve the ethical practice of the law, several creole legal professionals established themselves across Cuba, and particularly in Havana, with increasing participation in social and intellectual spaces, and ultimately becoming active members of the local political factions that included loyalist, reformists and separatists to Spain, or supporting the annexation to the United States. Political tensions, hence, mounted, and the failure to effectively police lawyers in Cuba, along with the crisis of Spanish colonialism in America, set the stage for the eventual outbreak of the first Cuban revolution for independence in the 1860s.

New Regulations for Cuban Lawyers Under Spanish Liberalism.

On September 29th, 1833, three-year-old Isabel II was proclaimed Queen of Spain. The kingdom split between those who supported Isabel, as the daughter of the late king, and those who followed Ferdinand VII's brother, Carlos María Isidro of Bourbon, as the surviving male heir to Ferdinand. *Carlistas*, as they were known, claimed Carlos's legal right based on the Salic Laws that forbade women to reign. This division led to a political crisis and a military conflict known as *Guerras Carlistas*, where Isabel's troops ultimately prevailed. In view of Isabel's minor age, María Cristina Bourbon Dos Sicilias, her mother, became regent with the support of Spanish liberals. This alliance between the Crown and liberals created favorable conditions for the spread of liberalism across Spain and its

remaining overseas territories. One of the first significant changes was to provide a new role for the law.

In 1834, the Regent María Cristina signed a “Royal Statute” that turned Spain into a Constitutional Monarchy, as had briefly occurred in the periods 1812-1814 and 1820-1823. In a more progressive fashion, the Queen signed a new liberal Constitution in 1837, which restored some of the most progressive liberal features of the Cádiz Constitution of 1812.³⁰⁹ This modernizing political regime was marked by the supremacy of the Constitution, a most liberal principle. Lawyers, trained to enact, interpret and apply the law, became essential actors in this process of modernization and emerged as undisputed protagonists of the liberal society in the making. Still, Spanish colonialism continued regulating lawyers’ professional practice, now under the new government’s liberal frame.

The Spanish metropolis continued enacting regulations pertaining to the legal profession to be implemented both in Iberia and overseas. In the particular case of the lawyers in Cuba, there were still unresolved issues related to legal practice that required regulation. One of those issues was the existence of non-collegiate lawyers who could not practice in Puerto Príncipe after the creation of the *Colegio de Abogados* in 1831.³¹⁰ In a letter of 1832, Ferdinand VII had determined that membership in this *Colegio* was a requirement to litigate before the *Audiencia* of this city.³¹¹ This policy left many lawyers

³⁰⁹ Manuel Estrada Sánchez, *El Significado Político de la Legislación Electoral en la España de Isabel II* (Universidad de Cantabria, 1999), 51 – 52.

³¹⁰ ANC, Fondo Reales Ordenes y Cédulas, Orden 31, Legajo 87, Letter from Ferdinand VII to the Captain General in Cuba dated May 26th, 1832; and *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1832), 150.

³¹¹ ANC, Fondo Reales Ordenes y Cédulas, Orden 31, Legajo 87, Letter from Ferdinand VII to the Captain General in Cuba dated May 26th, 1832.

in hardship and, in order to recover their practice, some of them, such as Agustín de Varona and Tomás de Arredondo, requested to the colonial authorities to reconsider this restriction.³¹² The *Audiencia* of Puerto Príncipe considered their case and, in an *Auto Acordado* dated March 7th, 1836, authorized the practice of non-collegiate lawyers as long as they did not have any particular prohibitions or pending criminal or civil causes.³¹³

While the government made attempts to professionalize the practice of law in Cuba through *Colegios* and regulations, some agents continued offering legal representation without complying with all the requirements established in the law. Some of them were not even lawyers and appeared in documents and legislation as *tinterillos*, *picapleitos* or *papelistas*. This practice was illegal, and the Spanish law typified a criminal those “agents who directed and pursued judicial defenses under the signature of attorneys.”³¹⁴ It was alleged that these individuals “usually obstructed the good practices of the law fomenting unjust lawsuits in detriment of the interests of the parties.”³¹⁵ For that reason, the official policy was to prosecute *papelistas*.

³¹² ANC, Fondo Reales Ordenes y Cédulas, Orden 26028, Legajo 503, Auto acordado of the Royal Audiencia allowing the attorneys that were not incorporated to the colegio de Abogados to work in the city.

³¹³ Ibid.

³¹⁴ José María Morilla, *Breve tratado de Derecho Administrativo Español general del reino y en especial de la Isla de Cuba* (Tip. de D. Vicente de Torres, Habana, 1847), 143. Parte Segunda, Materia Administrativa, Sección Primera, Intereses Sociales y conservadores: “Picapleitos son los pendolistas, papelistas, agentes y demás personas que dirigen y hacen las defensas judiciales de las partes, bajo la firma de procuradores y de letrados.”

³¹⁵ Ibid. “Estos picapleitos deben ser también perseguidos por la policía, por el daño que causan fomentando pleitos injustos con perjuicio de las partes y entorpecimiento de la buena administración de justicia, debiendo castigárseles por el mismo juzgado privativo.”

A Royal Order dated April 7th, 1836, established the *Corte de Vagos y Picapleitos*.³¹⁶ Through this Court, colonial authorities would prosecute both those who did not have a gainful occupation without any justification, and those who offered legal services without the qualifications to be a lawyer or without the permission of the *Audiencia*. The Court would become a mechanism to reduce the number of legal practitioners in the island. Ultimately, its principal overall goal was to warrant a proper exercise of the legal profession.³¹⁷ The Chief Justice of this Court was the Captain General of the island, Miguel Tacón y Ronique, who had served as Governor of the Province of Popayán, New Grenada, during the turbulent period of 1810 - 1811. That experience made him keenly aware about the political danger that lawyers represented. After being released from his duties in Cuba in 1838, his successors continued his adamant prosecution of uncontrolled legal practices.³¹⁸

This idea to prosecute laziness was not exclusive to Cuba. In newly independent Spanish American countries, judicial and local authorities had shown their concern for

³¹⁶ José María Zamora Coronado, *Apéndice al Registro de Legislación Ultramarina*, Vol. 1 (Imp. del Gobierno y Capitanía General, 1839), 245. “Establecido el juzgado privativo de vagos y picapleitos a cargo del gobernador Capitan General como presidente gobernador civil de la isla en ejecución de la real orden de 7 de Abril de 1836, debiendo conocer exclusivamente por la pública conveniencia que de ello resultaba, con acuerdo del asesor de gobierno, se designó desde entonces al primero para agregarle este ramo con que corra. Este juzgado atempera sus determinaciones a las ordenanzas y leyes del reino de la materia, y de los acordados y providencias gubernativas que han ido dictándose por los jefes y tribunales superiores para refrenar la vagancia, e inclinar a todos los ciudadanos a ser vecinos honrados y laboriosos como elemento tan esencial a la sólida felicidad y fomento de los pueblos.”

³¹⁷ Felix Erenchun, *Anales de la Isla de Cuba: Diccionario administrativo, económico, estadístico y legislativo*, Vol. 2 (Imp. La Habanera, Habana, 1857), 757. “18. Establecido de la propia manera en la Isla un juzgado especial para los vagos y picapleitos, tuvo tambien un asesor privativo. Hacía en él las veces de juez el Capitán General, y las de asesor el teniente gobernador primero, cesando también la asesoría por haberse suprimido semejante juzgado en 24 de Septiembre de 1848.”

³¹⁸ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Havana, Imprenta del Gobierno, 1836. As Capitan General of Cuba and Judge-President of this Court followed Joaquín Ezpeleta Enrile (1838 – 1840), Pedro Tellez Girón (1840 – 1841), Jerónimo Valdés (1841 – 1843), Francisco Javier de Ulloa (September – October, 1843), and Leopoldo O’Donnell, Duque de Tetuán (1843 – 1848).

these and other anti-social behaviors, emphasizing in some verdicts the need to pay close attention to this issue. Timo Schaefer, for example, explains how Mexican recruits were often described as lazy, which was considered a negative factor in the prosecution of the culprits.³¹⁹ This notion relates to the idea of liberalism for a society based on the respect to the law and, hence, the fulfillment of social and moral expectations that would include being a productive and obedient member of society. The distinction with Cuba is that this prosecution of laziness was taking place still in a colonial context, and by a court created for this particular purpose.

The *Corte de Vagos y Picapleitos* in Cuba had a delegate in both the *Audiencias* of Havana and Puerto Príncipe who was the *Regidor* of each of these tribunals.³²⁰ The staff of the court also included an *asesor letrado* and an *escribano*.³²¹ For the position of *asesor letrado*, the Captain General Tacón y Ronique initially appointed the *asesor teniente gobernador* in Havana and attorney José Ildefonso Suárez, on whom he relied heavily for the functioning of this court.³²² Suárez was a conservative Spanish official known for his

³¹⁹ Timo Schaefer, *Liberalism as Utopia: the Rise and Fall of Legal Rule in Post-colonial Mexico, 1820 – 1900* (Cambridge University Press, 2017), 65 – 67.

³²⁰ ANC, Fondo Gobierno Superior Civil, Orden 56830, Legajo 1449, Official communication to the Royal Audiencia dated 21 de Mayo of 1847 affirming their role in the control of the practice of lawyers in the city; ANC, Fondo Gobierno Superior Civil, Orden 56828, Legajo 1449; ANC, Fondo Gobierno Superior Civil, Orden 56829, Legajo 1449 Appointment of provincial deputies for the Court of Vagrants and Pettifoggers.

³²¹ Erenchun, 757. “Hacia en el [tribunal] las veces de juez el Capitan General, y las de asesor el teniente gobernador primero (...)” D. Pedro Vidal Rodríguez served as secretary and *escribano* for many years. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1837), 150; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1839), 160; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 210; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1847), 243.

³²² *Guía de Forasteros*, 1836; and José de Nantes, *Papeles Varios (1834 – 1838)* T.III, 5th Vol. *Breve resumen de los excesos y arbitrariedades cometidos por D. José Ildefonso Suarez*.

abuses and arbitrariness.³²³ One of the lawyers that suffered Suárez's prosecution was Anacleto Bermudez Pérez de Corcho, who was suspended from legal practice on several occasions.³²⁴ In 1847, Bermudez successfully disparaged Suárez for his abuses, which forced his dismissal that year.³²⁵ The *Corte de Vagos y Picapleitos* functioned until September 24th, 1848.³²⁶ Unfortunately, available sources do not allow the reconstruction of the everyday operations of this tribunal.

In the wave of liberal legal reforms, in 1837, the Regent Queen reestablished the Decree of June 8th, 1823, that had liberalized scientific professions such as law and medicine. As per this law, any member of a scientific profession could practice without membership to a particular *Colegio* or corporation, giving free way to the growth of those professional activities.³²⁷ In the case of lawyers, the Decree of 1837 abrogated the limited system of quotas that Ferdinand VII imposed on Cuba before and after the liberal triennium, and

³²³ Initially, the job fell on José Ildefonso Suarez, a conservative Spanish official known for his abuses and arbitrariness. José de Nantes, *Papeles Varios* (1834 – 1838) T.III, 5th Vol. *Breve resumen de los excesos y arbitrariedades cometidos por D. Jose Ildefonso Suarez en el desempeño de la asesoria primera de gobierno de la Habana, que le esta conferida interinamente y la del Juzgado Privativo que se ha erigido en esta capital.* The situation forced the Capitan General to remove Suárez in 1847, and to appoint Melitón Balarzátegui in his stead. See ANC, Fondo Reales Ordenes y Cédulas, Orden 56828, Legajo 1449, Appointment of Meliton Balarzategui as counselor of the Court.

³²⁴ Emeterio Santovenia and Raul M. Shelton, *Cuba y su historia*, Vol. 1 (Rema Press, Miami, 1965), 394 - 395.

³²⁵ Ibid. Having lost his position, the family of Ildefonso Suarez found themselves in the misery, reason why the same lawyer Bermudez who sued the public official did not accept any compensatory payments from them.

³²⁶ Erenchun, 757. “cesando también la asesoría por haberse suprimido semejante juzgado [de Vagos y Picapleitos] en 24 de Septiembre de 1848.”

³²⁷ Marcelo Martínez Alcubilla, *Diccionario de la administración española: compilación de la novísima legislación de España peninsular y ultramarina en todos los ramos de la administración pública*, Vol. 1 (Arco de Santa María, 1892), 61. Real Decreto de 20 de Julio 1837 restableciendo el decreto de las Cortes de 8 de Junio de 1823 sobre el libre ejercicio de las profesiones científicas. “Los abogados, médicos y demás profesores aprobados, sean de la profesión que fueren, pueden ejercerla en todos los puntos de la Monarquía, sin necesidad de adscribirse a ninguna corporación o Colegio particular, y solo con la obligación de presentar sus títulos a la autoridad local.”

showed the support of liberalism for professions traditionally controlled and restricted under the Ancien Régime.³²⁸ Yet, the *Colegios de Abogados* still remained; but Spanish liberal government decided to standardize their regulations. As a result, on May 28th, 1838, María Cristina signed a Royal Order containing the *Estatutos de los Colegios de Abogados*, a standard set of rules for all lawyers in Spain and its domains.

Article 1 of the *Estatutos Generales* ratified the idea that lawyers could practice their profession without being members of a *Colegio*.³²⁹ The language of this article, however, was controversial. While article 1 provided freedom to practice as a lawyer, it also established the requirements to be *avencidados*, have an open studio, pay a contribution, and register if there were a *Colegio* in their town.³³⁰ Hence, contemporary jurists interpreted this article as a subtle form of control over lawyers and a restraint on their freedom to practice. One of the critics of this rule was Rafael Monares Cebrián, Secretary of Justice of Spain in 1863, who described it as “an obscure concept that does not follow the spirit of the law of 1837.”³³¹

³²⁸ Zamora y Coronado, José María, *Apéndice al Registro de Legislación Ultramarina*, Vol. 1, (Imp. del Gobierno y Capitanía General, Spain, 1839), 346 - 347. “(...) Habiendo visto en acuerdo este expediente formado sobre el número de abogados dijeron que para que las causas cursen con brevedad (...) es indispensable señalar a cada uno de los pueblos de la Isla (...).”

³²⁹ Arrazola, Lorenzo, *Enciclopedia Española de Derecho y Administración o Nuevo Teatro Universal de la Legislación de España e Indias*, T. IX (Tip. De Antonio Ruis y Rosell, Madrid, 1856), 639 - 640. Estatutos de los Colegios de Abogados de 28 de Mayo de 1838.

³³⁰ For the term *avencidado*, see Tamar Herzog, *Defining Nations: Immigrants and Citizens in Early Modern Spain and Spanish America*, Yale University Press, New Haven, 2003. This is a study of the notion of *vecino*, how it was connected to the practice of rights in medieval Spain, and its transplant to Spanish America.

³³¹ *Colección Legislativa de España*, Edición oficial, Primer Semestre de 1863, T. LXXXIX (Imprenta del Ministerio de Gracia y Justicia, Madrid, 1863), 252. “Pero el concepto oscuro de dicho artículo y su locución aparentemente restrictiva no pareció conforme al espíritu de la ley de 11 de Julio de 1837 (...).”

The issue to control the domicile and relocation of lawyers was not foreign to Cuba. In 1838, lawyers Antonio Guillermo Sánchez and José Pérez Machín abandoned the village of San Juan de los Remedios to spend some time in the countryside. In both cases, the lawyers left their clients unattended and Sánchez even relocated to the city of Cienfuegos and never returned to Remedios. Upon clients' complaints, the *alcalde ordinario* of Remedios filed a motion before the *Audiencia* of Puerto Príncipe requesting to forbid attorneys to relocate without permission in order to avoid economic harm to unattended clients. *Regidores* of the *Audiencia* granted this request and stated that lawyers could not relocate freely without official authorization. Shortly thereafter, around mid-1838, Captain General of Cuba Joaquín de Ezpeleta enacted an order that forbade lawyers on the island to relocate or change their domicile without his permission.³³²

Regarding the establishment of *Colegios*, the new statutes required the opening of one in every city or village where the *Audiencias* resided, and in every capital of province, town or *partido* with at least 20 lawyers.³³³ Each *Colegio* should have a *Decano*, a *Board of Directors* and unlimited members or *colegiados*. The unlimited membership also constituted a departure from the system of quotas, while allowed records of every lawyer working in towns and cities where a *Colegio* existed.³³⁴ This Royal Order of 1838 deprived

³³² ANC Fondo Gobierno Superior Civil, Orden 11144, Legajo 327, Royal Order forbidding lawyers to relocate without previous authorization.

³³³ Arrazola, Lorenzo, *Enciclopedia Española de Derecho y Administración o Nuevo Teatro Universal de la Legislación de España e Indias*, T. IX (Tip. De Antonio Ruis y Rosell, Madrid, 1856), 639 - 640. Estatutos de los Colegios de Abogados de 28 de Mayo de 1838. Art 1. Los abogados pueden ejercer libremente su profesion, con ta que se hallena avencidados y tengan estudio abierto en la poblacion en que residan, sufriendo ademas las contribuciones que como tales abogados se les impongan. En los pueblos en que exista Colegio, necesitaran tambien incorporarse en su matricula.

³³⁴ Zamora, 346 - 347. *Real Acuerdo* signed in Puerto Príncipe on March 28th, 1816.

Colegios of their former autonomy to enact their own statutes, but kept them in control of those involved in legal practice within that jurisdiction. At the same time, the authorization of new *Colegios* mostly responded to the necessity to control those in practicing law and preserve, what it referred to as, “the ethic and dignity of the profession.”³³⁵

Lawyers could have membership in more than one *Colegio*. They should submit to the Board of Directors a statement requesting admission along with their diploma from a law school or the certification to be members from another *Colegio*. This law also ruled that lawyers could litigate out of their *Colegio*'s territory if they or their relatives up to the fourth degree were an interested party, or if they had started the process initially in the territory of their respective *Colegio*. As per the statute, if a member committed any action against the “honor and morality” of the *Colegio*, he could be the target of sanctions by the rest of the *colegiados*.³³⁶ The Spanish Crown started circulating these *Estatutos* even before they were officially promulgated on May 28th. On May 5th, 1838, Queen Regent María Cristina sent a copy of the Royal Order to the *Decano* in Puerto Príncipe, and the oldest lawyer in each town across the island.³³⁷ Havana, however, did not open a *Colegio*, although its oldest lawyer continued appearing in the *Guías de Forasteros* addressed as *Decano*.

³³⁵ Arrazola, *Enciclopedia Española de Derecho y Administración*, 641. Estatutos de los Colegios de Abogados de 28 de Mayo de 1838. Art 15. (...) 10. defender del modo que juzgue conveniente y cuando lo considere justo, a algún individuo del Colegio, perseguido por el desempeño de su noble profesión. (...)”

³³⁶ Ibid, 640. Estatutos de los Colegios de Abogados de 28 de Mayo de 1838. Art. 10 “Si después de admitido un individuo en el Colegio, cometiese faltas que le hiciesen desmerecer del honroso cargo que desempeña, la junta de gobierno le amonestará hasta tres veces; y si esto no bastase dará cuenta en junta general de abogados, para que esta determine lo que más convenga al decoro de la profesión y del Colegio.”

³³⁷ Ibid, 639. FN (1) “En 5 de Mayo se pasó Real Orden a los regentes de las Audiencias para que dirigiéndose a los decanos de los Colegios existentes y a los abogados más antiguos de los pueblos, les ordenasen la instalación de los Colegios conforme a los nuevos estatutos (...)”

Local officials across the island welcomed the creation of *Colegios*. Most of them were lawyers, who probably wanted the prestige of belonging to such an institution conceived of as elitist and with limited membership. Spanish authorities, however, still considered excessive the number of lawyers in Cuba.³³⁸ They questioned how effective it would be to control legal professionals through those organizations since they no longer had a cap on the number of members.³³⁹ Puerto Príncipe, for instance, had an initial limited membership of 24 lawyers in 1831, whereas the *Guías* reported 34 *colegiados* and 30 *no-colegiados* in 1839.³⁴⁰ Nevertheless, local governments complied with the law and started establishing *Colegios*.

On June 15th, 1840, the magistrates of the *Audiencia* of Puerto Príncipe sent a recommendation to Havana listing the additional *Colegios* they considered necessary in Cuba at that time. It included four: Santiago de Cuba, Bayamo, Trinidad and Cienfuegos. They were mostly concentrated in the East and Central regions of the island where, paradoxically, there was a lower population of lawyers. In fact, they had to consolidate the lawyers available in various neighboring cities to reach the minimum number of twenty

³³⁸ Erenchun, Felix, *Anales de la Isla de Cuba: Diccionario Administrativo, economico, estadístico y legislativo*. Vol. 2. (Impr. La Habanera, 1857), 9. “Hay razones poderosas a favor de los Colegios cerrados, porque es excesivo el número de letrados de esta isla y si pueden todos formar parte de esas corporaciones, sucederá como hoy, que la falta de negocios ejerza una influencia funesta sobre la moralidad de algunos, no tan entendidos o tan afortunados como otros que consiguen tener numerosa clientela.”

³³⁹ Ibid, 9. “Estando establecidos Colegios ilimitados en la Península y en el territorio de la Audiencia de Puerto Príncipe, crearlos aquí con número limitado, sería introducir desigualdad repugnante entre unos y otros abogados; porque mientras que un letrado del Departamento Occidental de la Isla, podría ejercer libremente su profesión en cualquier pueblo del Departamento Oriental y de la Península, un abogado de estos últimos no podría ejercerla en los pueblos del primero; en que hubiese Colegio.”

³⁴⁰ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1839), 128 – 130.

that the law required to open a *Colegio*. The proposed *Colegios* opened shortly thereafter, being all in existence within the next five years.³⁴¹

The first of the new *Colegios* opened in Eastern Cuba. The *Colegio* of Santiago de Cuba opened with 37 members in 1840, gathering the lawyers working in the cities of Santiago and Baracoa, and including one clergyman, José María Herrera.³⁴² The *Colegio* of Bayamo opened in the year of 1841 including 17 lawyers of Bayamo, 7 from Holguín, and 4 from Manzanillo. Although Holguín was relatively far from the other two cities, the domicile of the *Colegio* was in Bayamo, where the members of the Board resided.³⁴³ The opening of *Colegios* in Cienfuegos and Trinidad, in the central of the island, remained pending until the next years.



Map No. 3 Colegios de Abogados in Cuba by 1845.

³⁴¹ ANC, Fondo Gobierno General, Orden 27292, Legajo 557, File for the establishment of the *Colegio de Abogados*.

³⁴² The first Dean was the attorney Manuel de Mena. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1841), 181 - 182. The members of the Board were the new Dean José María de Herrera, First Deputy Tomás Segura, Second Deputy Manuel de Valenzuela, Treasurer José Ramón de Villalón, Secretary Accountant Pedro Celestino Salcedo, Scribe Máximo Antonio Salcedo, and the Clerk Manuel Buchenez. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1842), 178 – 179.

³⁴³ Dean Pedro Yero, First Deputy Raymundo Bazán, Second Deputy Manuel Desiderio Estrada, Treasurer Manuel de Jesús Calas, and Accountant Secretary Francisco Tamayo Fleyte composed the first Board. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1842), 181 – 182.

Havana had a larger population than the rest of the provincial towns with approximately 330 lawyers. This number included those with open practices, those who worked under other lawyers, public officials, *oidores* and at least twenty ecclesiastical attorneys. The city, however, continued without a formal *Colegio de Abogados*. Ferdinand VII had authorized its creation since 1819; but its constitution was delayed and never happened during his reign. In contrast, the *Guías de Forasteros* started acknowledging a Dean and a Prodean among lawyers in Havana as a recognition based on seniority rather than the actual existence of a professional organization.³⁴⁴

In 1840, General Baldomero Espartero led the progressive factions in Madrid and, upon election by the *Cortes Generales*, assumed the regency until the future Queen Isabella II came of age. Inspired by the most progressive Spanish liberalism, Espartero undertook radical transformations regarding the practice of law. First, on November 28th, 1841, the Spanish government reenacted the Royal Order of 1837 that allowed lawyers to practice their profession without being members of any corporation or *Colegio*.³⁴⁵ Consequently,

³⁴⁴ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1828), 160; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1829), 128; and *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1830), 128. During this period, Pedro José Apecechea who descended from a family of lawyers, became the Dean, being the oldest lawyers in Havana since 1784, and Julián Segundo was the Prodean, who established his law office in 1786. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1839), 134; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1836), 132. Pedro José Apecechea remained as the Dean in Havana until 1845. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1837), 131; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1838), 130; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1839), 133; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1840), 144; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1841), 149; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1842), 149; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1843), 107; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 153.

³⁴⁵ Teodoro Gómez Herrero, *Diccionario-guía legislativo español*, Vol.1, Part 1 (Librería de D. Victoriano Suárez, Madrid, 1902), 417. “Disposición 447 del T. 27, pages 817 (Gracia y Justicia): Orden de 28 de Noviembre de 1841, resolviendo que los abogados puedan ejercer su profesión sin necesidad de adscribirse

lawyers only had to show their diploma to practice within the jurisdiction, and were not bound by the requirement to inscribe themselves in a *Colegio* if one existed in the town, as per *Estatutos Generales* of 1838. By the time this law was enacted, there were 330 lawyers in Havana, and at least 224 throughout the rest of the island.³⁴⁶

Although a *Colegio* membership was no longer required, perhaps as a result of the power of tradition, the liberal Spanish government continued promoting these institutions. Between 1842 and 1844, Governor Valdés de Noriega authorized two new *Colegios* in the center of the island: the already proposed *Colegio de Trinidad* with 31 lawyers from Trinidad, Santa Clara and Remedios, and another of exceptionally 14 members in Sancti Spiritus, subordinated to Trinidad.³⁴⁷ The *Colegio* of Cienfuegos also opened up during this period, and it was already in operation in 1844.³⁴⁸ By contrast with the traditional practice of appointing as Dean the oldest lawyer of each town, the newly created *Colegios* elected for this position from among local authorities, either *auditores de guerra* (war auditors) or *magistrates*.³⁴⁹ This situation might be interpreted as a change from

a ninguna corporación o Colegio particular, y si solo con la obligación de presentar sus títulos a la autoridad local.”

³⁴⁶ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1841), 148 - 185.

³⁴⁷ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 196 – 198. Honorary magistrate Gabriel Suarez de Villar was Dean of the former. Lawyer Jacinto José de Estrada was Dean of the latter.

³⁴⁸ ANC, Audiencia de la Habana, Legajo 14, Expediente 238, File referring to the appointment of *promotores fiscales* by the *Colegio de Abogados* of Cienfuegos from 1844, which demonstrates the existence and operations of the *Colegio* at that time and its opening during the early 1840s.

³⁴⁹ In 1843, the honorary war auditor Manuel Hernández became the Dean of the Santiago de Cuba *Colegio*, and the honorary war auditor Pedro Gregorio Estrada started as the Dean of the Bayamo one. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 192 – 194. In Puerto Príncipe, former magistrate Juan Nepomuceno replaced attorney Manuel Carmona as Dean of the *Colegio*, See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 189.

appointment based on seniority to one based on merits or political authority, a departure from tradition into a more meritocratic and liberal model.

Other activity proper of the *Colegios* that lawyers across the island started putting into place, even in Havana, was the *abogados de pobres* (attorneys for poor people). Since the decade of 1840s, the lawyers from Havana, Puerto Príncipe and Santiago de Cuba published lists of those lawyers who would bring these services to the poor people of those towns. The lists were included in the *Guías de Forasteros*. These appointments complied with article 7 of the *Estatutos Generales* that required the *Colegios* to appoint lawyers to elect members for this social function.³⁵⁰ A Royal Decree dated June 5th, 1844 forced *Fiscales* and *Promotores Fiscales* to be present in the meetings of the Board of the *Colegio* that *abogados de pobres* were elected, and to make sure that this “burden” (*carga*) would be proportionally distributed among the members of the *Colegio*.³⁵¹ Missing a formal institution in Havana, or records from the meetings in the provincial *Colegios*, it is unclear how the *abogados of pobres* were selected, but the lack of a clear pattern among those listed in the *Guías* might indicate that they were randomly chosen.

The social effects of the *abogados of pobres* is uncertain while some of the lawyers appointed were even absent for the time they should be serving. Lorenzo de Allo, for example, was selected *abogado de pobres* in Havana in 1841 and 1842, but he was absent

³⁵⁰ Arrazola, *Enciclopedia Española de Derecho y Administración*, 640. Estatutos de los Colegios de Abogados de 28 de Mayo de 1838. Art 7 “Nombrar los abogados de pobres teniendo cuidado de repartir los cargos de modo que cada colegial los sufra con igualdad, según el método que se decida por la Junta General.”

³⁵¹ Antonio Fernández Chorot, *Legislación Ultramarina* (Imprenta de Viotas, Cubas y Vicente, 1866), 455. See Royal Decree June 5th, 1844, art. 7 “A la Junta General en que se elijan personas para el desempeño de dichos cargos y a la en que se nombren *abogados de pobres* concurrirán precisamente donde haya tribunal superior el fiscal, y el promotor fiscal en las demás poblaciones.”

from the city between 1841 and 1843.³⁵² In spite of the failures in the implementation of this activity, the enforcement of *abogados de pobres* showed that Spain wanted to provide access to justice to people of lower economic resources, a manifestation of equality and access to legal advice that broke with the traditional control over the legal knowledge of the elites. In addition to the *abogados de pobres*, the cities also had their own system to represent slaves, who was the syndic or *síndico procurador*, position that also occupied lawyers.³⁵³ The public system of justice was not always efficient when public defenders were known for always being overwhelmed with work.³⁵⁴ Yet, their intervention on several occasions prevented abuses and illegalities against the poor or the slaves, and gradually made available the access to justice to social groups previously deprived of professional representation.³⁵⁵

Progressive liberal forces only controlled Spain until 1843, when Espartero stopped acting as Regent of the Queen. Among the transformations implemented upon their return, moderated liberals suppressed the liberalization of legal practice. By Royal Decree of June 6th, 1844, once more lawyers had to register themselves in a *Colegio* to practice, a rule that reinstated the previous exclusivity of these institutions, and its members.³⁵⁶ This policy

³⁵² *Guia de Forasteros de la Siempre Fiel Isla de Cuba*, Havana, Imprenta del Gobierno, 1840 – 43.

³⁵³ José Luis Belmonte, *Utilizando las armas que están a su alcance: esclavos contra amos indígenas en los tribunales de justicia de Trujillo del Perú a fines del siglo XVIII*, in Sigfrido Vazquez Cienfuegos, *Poder y Conflictividad Social en América Latina* (Charles University in Prague, 2017), 57.

³⁵⁴ *Ibid*, 57.

³⁵⁵ Alejandro de la Fuente, *Slaves and the Creation of Legal Rights in Cuba: Coartación and Papel*, in Josep M. Fradera and Christopher Schmidt-Novara, *Slavery and Anti-Slavery in Spanish's Atlantic Empire* (Berghahn Books, 2013), 101.

³⁵⁶ *Colección Legislativa de España*, Edición oficial, Primer Semestre de 1863, T. LXXXIX (Imprenta del Ministerio de Gracia y Justicia, Madrid, 1863), 252.

affirmed the royal effort to restrict legal knowledge and its practice to those inscribed in *Colegios*, which would prevail during the following decades. Therefore, the legacy of progressive liberalism in relation to lawyers did not primarily remain primarily in the policy regarding *Colegios de Abogados*, but in the reforms in legal education in concert with the secular trend that spread across the Spanish Empire.

The Secularization of the Education: Changes in Legal Training.

In 1836, Regent María Cristina authorized the creation of the National Direction of Studies in Madrid.³⁵⁷ This institution issued multiple orders that transformed the educational system at every level and, consequently, the University of Havana.³⁵⁸ The still Pontifical University of Havana was initially reluctant to adopt most of these transformations. On March 7th, 1837, its President requested of the *Ministerio de Ultramar* the direct subordination of the University of Havana to the *Capitan General de Cuba* instead of the National Direction of Studies located in Madrid. Perhaps deeming it more practical, the Spanish government granted this request; yet, the process of modernization of education in the island continued.³⁵⁹

Spanish authorities formed a commission comprised of local members to propose a plan of reform to the University of Havana in 1841. The members of this commission were Jaime María de Salas Azara, magistrate of the *Audiencia*, Vicente Vázquez Queipo,

³⁵⁷ AHN, ULTRAMAR 7 Exp. 5. Control of the Spanish government over the University of Havana. Letter dated December 31st, 1836, from the Capitan General to the Ministerio de Ultramar regarding the establishment of the *Dirección Nacional de Estudios*.

³⁵⁸ AHN, ULTRAMAR 7 Exp. 5. Letter dated March 6th 1837 from the President of the University of Havana to the Capitan General explaining the reasons to keep local control over the academic institutions.

³⁵⁹ AHN, ULTRAMAR 7, Exp. 5. Royal Order dated March 7th 1837 ordering to the President of the *Dirección* to moderate application of their legislation to the island to avoid contradictions with local government.

fiscal of the *Audiencia*, and José de Lletor Castroverde, Dean of the School of Medicine.³⁶⁰

The members of the commission were members of the colonial establishment and defenders of Spanish colonialism over the island, but still promoters of transformations in a changing society.³⁶¹ Other private initiatives also wanted to reform to the university; but they did not find support when an official commission was already working on the project. This was the case of the fiscal of the University of Havana and former *síndico procurador* Ramón de Armas, who even wanted to create an independent institution for the teaching of Civil Law.³⁶²

Other reforms broke the traditional exclusive access to Universities to wealthy families. On January 8th, 1838, the Spanish government issued a Royal Order that waived tuition fees to poor students to enroll in the first year of the studies of philosophy or any other career.³⁶³ In a reinterpretation of this Order on June 12th, 1843 Spain extended the tuition waiver to students in second, third or last year of the program, under condition to having received outstanding academic results in the previous year, and proving lack of economic resources or insolvency. To prove insolvency, the law only required legalized certifications of the local priest and the town hall, although the universities' officials could

³⁶⁰ AHN ULTRAMAR 12, EXP 11. Letter from Gerónimo Valdés dated May 29th, 1841, in response to the request of Ramón de Armas to open an institute in Havana for the teaching of Civil Law, and a commission to reform the University of Havana.

³⁶¹ AHN ULTRAMAR 2019, Exp. 11. Letter from Miguel de la Torre, Captain General of Puerto Rico, dated December 27th, 1836, described Salas and the rest of the members of the *Audiencia* of this island as loyal to the Queen, but also identified with her cause to support freedom. "(...) su decidida adhesión a la causa de la Sra. Nuestra Reina Isabel Segunda, identificada con la de la libertad (...)."

³⁶² AHN ULTRAMAR 12, EXP 11. Letter from Gerónimo Valdés dated May 29th, 1841.

³⁶³ Royal Order dated January 8th, 1838. See *Colección de las Leyes, Decretos y Declaraciones de las Cortes y de los Reales Decretos*, Vol. 30 (Imprenta Nacional, 1843), 278.

pursue further investigations in cases of doubt.³⁶⁴ This regulation granted access to the University to families that lacked economic resources and set the legal framework for students outside of the traditional elite to have access to the School of Law. The requirement to have good academic results, additionally, favored students based on their merits, rather than lineage or other pre-liberal standards.

By Royal Order dated August 24th, 1842, Captain General Gerónimo Valdés started the secularization of the University of Havana, which was renamed as Royal and Literary University of Havana.³⁶⁵ The main purpose of this process was to suppress the influence of religious orders over education.³⁶⁶ As a result, the National Direction authorized a new Plan of Studies and a renovated system of Chairs where a modern group of courses joined the one that Dominicans had traditionally used: Canon Law and Roman Law. While there continued to be a course on *Digesto Romano-Hispano*, the rest of new Chairs relied on contemporary legal theories: Administrative and Public Law; Criminal Law and Procedure; *Derecho Patrio* or National Law; Commercial Law and Political Economy; and International Law.³⁶⁷ The incorporation of some of these Chairs marked a revolutionary transformation with respect to the previous teachings of the law.

³⁶⁴ Royal Order dated June 12nd, 1843. See *Colección de las Leyes, Decretos y Declaraciones de las Cortes y de los Reales Decretos*, Vol. 30 (Imprenta Nacional, 1843), 279.

³⁶⁵ Catálogo General de la Universidad de La Habana y Memoria, Universidad de la Habana, Memoria Anuario correspondiente al curso académico 1903-1904, M. Ruiz y Co. Imprenta y Papelería Obispo 18 y 20, Habana, 1905, 13. See Royal Order dated August 24th of 1844 about the reform to the plan of studies.

³⁶⁶ Anuario de 1870-71, *Memoria acerca del estado de la enseñanza en la Universidad de la Habana en el curso 1869-1870* (Imprenta del Gobierno y Capitanía General, Habana, 1871), 8.

³⁶⁷ José Antonio Valdés, José María Zorrilla, Antonio Zambrana, Francisco Campos, Diego José de la Torre, Ramón de Armas, and Pascual Salazar occupied the new law Chairs, respectively, in 1842. Diego José de la Torre was the Dean of the School of Law, while José Giralt and Francisco Javier Urrutia were the Substitutes or *supernumeraries*. *Catálogo General de la Universidad de La Habana y Memoria, Universidad de la Habana*, Memoria Anuario correspondiente al curso académico 1903-1904, M. Ruiz y Co. Imprenta y Papelería Obispo 18 y 20, Habana, 1905, 13. See Royal Order dated August 24th, 1844, about the reform to

Political Economy, for example, had been implemented in other territories of Latin America, such as Colombia, since the 1820s. In this country, provincial professors taught this course based on the works of Jean Baptiste Say and Adam Smith, graduating from the law schools several generations of free-traders who applied political economy to tax, tariff, and labor reforms.³⁶⁸ The first Chair of Political Economy in Cuba was Ramón de Armas, who had already proposed a commission to reform the university and establish an institution to teach Civil Law.³⁶⁹ De Armas only held the Chair for few years, until he resigned in 1845, and one of the supernumerarios, Félix Cascajares Azare, took over.³⁷⁰ The reasons for reformist De Armas' resignation are unclear, but when he requested the vacant Chair of Canon Law in 1856, his application was denied, seeming that the local authorities did not want a progressive thinker among the members of the faculty.³⁷¹

During the following decade, Political Economy was not assigned to progressive reformers, but individuals aligned with the colonial establishment. After two years as Chair, Cascajares requested a leave of absence for personal problems that postponed his

the plan of studies. See Royal Order dated October 27th, 1844 about the reform to the plan of studies and published in 1846. Pérez Murillo, María Dolores, *Aspectos demográficos y sociales de la Isla de Cuba en la primera mitad del siglo XIX*. (Servicio de Publicaciones, Universidad de Cádiz, 1988), 243.

³⁶⁸ Víctor Uribe Urán, *Honorable Lives: Lawyers, Family and Politics in Colombia, 1780 – 1850* (University of Pittsburgh Press, 2000), 113 – 114.

³⁶⁹ AHN ULTRAMAR 12, EXP 11. Request of Ramón de Armas to open an institute in Havana for the teaching of Civil Law, and a commission to reform the University of Havana; and *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Havana, Imprenta del Gobierno, 1842 – 46.

³⁷⁰ AHN ULTRAMAR 58, Exp. 4. Personal file of Chair Félix Carcajases Azare containing the extensions he requested during his tenure.

³⁷¹ AHN ULTRAMAR 32, Exp. 6. Ramón de Armas requests the Chair of Canon Law in 1856.

pursuit of a political career on the Peninsula.³⁷² Upon Carcajases dismissal, the Chair was assigned to José Domingo Guerrero, the supernumerario who had taught the course since 1850, and who seemed to have been focused on boosting his academic career when he started taking over other Chairs within the University.³⁷³ At the same time, the former professor of Public and Administrative Law, José María Morilla became the Chair of Political Economy during the 1850s. Although graduated in Spain during the liberal triennium, Morilla was a provincial lawyer, who did not stand out as a reformist and enjoyed of the support of colonial and academic authorities.³⁷⁴ Thus, Political Economy remained in mostly moderated hands that taught following official standards and without the reformist inputs of its first Chair, Ramón de Armas.

Another new Chair incorporated to the reform was Administrative and Public Law. As Uribe explains, this kind of Chair could have a more significant impact on the teaching a liberal rights and modern constitutional principles.³⁷⁵ Yet, the moderated position of his Chair José María Morilla suggests that he lacked of the revolutionary insight that, for example, followed Félix Varela Morales twenty years in San Carlos.³⁷⁶ Therefore, Morilla probably modeled a positivist teaching of administrative rules focused on the training of

³⁷² AHN ULTRAMAR 58, Exp. 4. Personal file of Chair Félix Carcajases Azare containing the extensions he requested during his tenure.

³⁷³ AHN ULTRAMAR 21, Exp. 11; and ULTRAMAR 30, Exp. 16. Files contain documents for the provision of Chair of José Domingo Guerrero. He later became Chair of Administrative and Public Law, and posteriorly Roman Law.

³⁷⁴ AHN, ULTRAMAR 2344, N.13, Memorandum regarding to the position of Chair of Administrative and Public Law in the University of Havana in favor to José María Morilla in 1852.

³⁷⁵ Uribe, 114.

³⁷⁶ *Félix Varela: ética y anticipación del pensamiento de la emancipación cubana: memorias* (Imagen Contemporánea, 1999), 173.

loyal bureaucrats rather than politicians and constitutional thinkers. During the 1850s, José Domingo Guerrero assumed this Chair; but his political stance does not seem to have been too far from that of Morilla, with probably similar results.

Not every Professor of Law, however, complied with the expected political *status quo*. In a report to the Captain General on July 21st, 1846, the University of Havana informed of the misbehavior of three professors: one from medicine and two from the law school.³⁷⁷ The report questioned the language of Dr. José de Lletor Castroverde, one of the members of the commission that reformed the university, for his references to sexual body parts in the classroom, and the flexibility that professor of Canon Law José Antonio Valdés had with his students. In both cases, Captain General Valdés did not pay too much attention to those complaints and, as an expression of his own departure from previous stricter moral standards, qualified them as slight offenses. That was not the case for the third accusation.

The report questioned the methods of Dr. Diego José de la Torre, Dean of the School of Law and Chair of Public International Law, as well as the convenience of eliminating this course from the curriculum. The report stated that the ideas De la Torre shared in the classroom were “contrary to the moral, as offensive to the decorum of the government, and notably to the obedience and union that respect to the metropolis should be taught unceasingly to the children of the country.”³⁷⁸ It later adds: “There is no one student that would declare a different idea to the professor, which is consequent to the

³⁷⁷ AHN ULTRAMAR 24, Exp. 33. Disciplinary file of Diego José de la Torre contains the report that refers to the other two professors.

³⁷⁸ Ibid. “Ideas vertidas en cátedra por Diego José de la Torre son tan contrarias a la moral como ofensivas al decoro del gobierno y señaladamente a la obediencia y union que respecto a la metropoli se deben inculcar incesantemente a los hijos del país.”

naturales of the island, because every emancipatory idea flatters them.”³⁷⁹ Regarding to the course itself, the reports states: “It would be very convenient to suppress the course of Public International Law,” and for De la Torre: “His separation from the University would bring happy results for the healthy fear that it would infuse in the others.”³⁸⁰

De la Torre was born in Havana, and received his degree of Licenciatura in Law, as well as the Doctorate, in that city in 1818.³⁸¹ While a student, De la Torre spent some time in Madrid, while Spain lived under the liberal triennium, this being the reason why his degree had to be validated in 1826. In his letter of application for the position of judge dated March 21st, 1836, De la Torre mentioned the militias that defended the liberal regime in Spain, which he refers as “glorious.”³⁸² At that time, only lawyers with clean reputation and either practical or academic experience were eligible for a judicial position, requirements that De la Torre fulfilled after having served during ten years at the School of Law, but he withdrew his application after not being assigned to any judicial position.³⁸³ Upon secularization, De la Torre became Dean of the School of Law based on seniority, and taught Public International Law, along with one of the courses of Roman Law.³⁸⁴ As

³⁷⁹ Ibid. “No se hallaría un solo alumno que en su declaración marcase una idea contraria al profesor, lo cual es consiguiente a los naturales de la isla, porque toda idea de emancipación les halaga.”

³⁸⁰ Ibid. “La idea de no convenir que continúe en las aulas el estudio del Derecho Público Internacional es en su juicio exacta, y sería muy conveniente que se suprimiese la asignatura,” and “La separación del mencionado De la Torre la conceptúa de felices resultados por el saludable temor que infundiría en los demás.”

³⁸¹ Francisco Calcagno, *Diccionario biográfico cubano* (N. Ponce de León, 1878), 623.

³⁸² AHN ULTRAMAR 1620, Exp. 16. File contains the application of De la Torre for a judicial position in Cuba.

³⁸³ AHN ULTRAMAR 9, Exp. 10. Provision of Chair granted for Diego José de la Torre during the 1830s.

³⁸⁴ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, 1842 and ss.

per the report, it seems that De la Torre continued defending his liberal ideas in his classes at the University of Havana, including ideas of separatism that contradicted with the political views of most of the faculty, and the University. Consequently, De la Torre was temporarily removed from his positions and his salary suspended, although the course on Public International Law remained.³⁸⁵ In the meantime, the Chair of Criminal Law and Procedures, Antonio Zambrana Valdés, assumed the position of Dean of the School of Law.

The interim Dean Antonio Zambrana was a member of an elite Cuban family, with proven lineage and notable for their service to the Crown. Zambrana was born in Havana in 1813, and studied during the 1830s.³⁸⁶ His political posture was loyalist to Spain, while supporting some reforms in Cuba. He was a prominent jurist, and he also held public positions such as Secretary of the *Sociedad Patriótica Amigos del País*, Counselor of the Administration, and Major of Havana in 1851.³⁸⁷ In the university, Zambrana was a respected professor and was appointed *Rector* in 1855.³⁸⁸

Another Chair created during this period was *Derecho Patrio*. In the new liberal context, the laws of each European kingdom started breaking with the *ius commune*, a common set of rules that dominated Europe based on the Roman legal tradition since the

³⁸⁵ Ibid. “No cree tan perjudicial su enseñanza mientras los encargados de explicarla no se salgan de las materias que constituyen su objeto.”

³⁸⁶ Francisco Calcagno, *Diccionario Biográfico* (N. Ponce de León, 1878), 701.

³⁸⁷ AHN ULTRAMAR 1656, Exp. 21. Incident in the process of José Jesús López, recruit in the prison of Ceuta where Antonio Zambrana was the legal counselor; and AHN ULTRAMAR 1670, Exp. 8. File of Antonio Zambrana to become Major of the city in Havana in 1851.

³⁸⁸ AHN ULTRAMAR 43, Exp. 16, Personal file of the President of the University of Havana, Antonio Zambrana; AHN, ULTRAMAR 1670, Exp. 8, Record of merits and services of Antonio Zambrana y Valdés, major of Havana.

middle ages. *Derecho Patrio*, by contrast, taught the origins and principles of the Spanish laws and created a local legal tradition different to the rest of Europe.³⁸⁹ The Chair of this course was Francisco Campos López, a natural from Tenerife who had taught Canon Law before the secularization, and who had held various positions within the administration of the island such as member of the Treasury and Assessor of the Court of Commerce.³⁹⁰ Although shades of liberalism started showing up in the courses and among members of the faculty of the School of Law, tradition and moderated stances still prevailed.

The incorporation of new Chairs did not transform the university completely and previous mechanisms to select the faculty remained in place, such as the presentation of *oposiciones* or competitive exams in front of a *Junta*, an academic tribunal, which chose the best among the candidates.³⁹¹ As part of the reform, professors who were already working at the University were asked to present these exams in order to prove competency for their respective academic positions.³⁹² Skills and knowledge had precedence over seniority or tradition in the preservation of the Chairs.

³⁸⁹ For a definition of *Derecho Patrio* during this period, see Juan Morcillo Ortiz, *Novísima Ilustración del Derecho Español* (Imprenta de José María Ducazcal, 1848), 30. “Conjunto de leyes que establece particularmente cada nación para sí, para su gobierno interior y el de sus individuos.”

³⁹⁰ AHN ULTRAMAR 264, Exp. 14. Personal file of Francisco Campos López including relation of merits and his services to the Spanish Crown as colonial official and awards.

³⁹¹ *Método de oposiciones y exámenes para la provisión de todas las escuelas del reino publicado el 29 de Octubre de 1825*, Imprenta Real, Madrid, 1829.

³⁹² All scholars, from Dean Diego José de la Torre to the *supernumerarios* Francisco Javier de Urrutia and José Giralt in 1846 had to present their *oposiciones* between 1845 and 1846. AHN, ULTRAMAR 18, Exp. 37. Request of Chair of International law made by Diego J de la Torre, Dean of the School of Jurisprudence and his longtime service as Professor of Public International Law and Roman-Hispanic Digest; AHN ULTRAMAR 19 Exp. 14. Documents pertaining to the creation of the secular Chairs in the University of Havana.

After secularization, the University of Havana continued following the plans of study used in Spain, specifically at the University of Salamanca.³⁹³ Despite the control over the contents and courses, local scholars sometimes adapted the plans of study based on contemporary legal trends. For instance, in 1848, substitute instructor Federico Fernández Vallín translated *External History of Law* authored by Leopold August Warnkœning (1794 – 1866) from the German Historical School of Law, and incorporated it to the course of Roman law.³⁹⁴ This work gained recognition in the Cuban *academia* at that moment.³⁹⁵ Other moderate liberals of this period also followed the German Historical School of Law in Latin America such as Andrés Bello in Chile and Juan Bautista Alberdi in Argentina.³⁹⁶ Another supernumerario or substitute instructor, Félix Giralt, started introducing studies on Legal Anthropology during the same period.³⁹⁷ Interestingly enough, *supernumerarios* appear to have been the ones who introduced most of the revisionist work during these years.

The secularization involved the necessity to modernize and update the bibliography students relied on at the University of Havana. For that reason, the School of Law

³⁹³ AHN ULTRAMAR 21, Expediente 7. This is a compilation of letters and royal orders sent to Cuba to standardize the studies of Jurisprudence of Cuba after the modifications that were taking place in Spain.

³⁹⁴ He did this while substituting the official instructor, Pascual Salazar. AHUH. Letter from Fernández Vallín to the President of the University of Havana dated July 8th 1848, Expediente 810, foja 24; AHUH, Expediente 810, foja 26. Evaluation of the scholarship of Fernández Vallín.

³⁹⁵ AHUH Expediente 810 fojas 26 and 39. Evaluation of the scholarship of Fernández Vallín.

³⁹⁶ See Ivan Jaksic, *Andrés Bello. Scholarship and Nation-Building in Nineteenth-Century Latin America* (Cambridge: Cambridge University Press, 2001), xviii; and Jeremy Adelman, “Between Order and Liberty. Juan Bautista Alberdi and the Intellectual Origins of Argentine Constitutionalism,” *Latin American Research Review*, Vol. 42, No. 2 (June, 2007), 88-89.

³⁹⁷ This work on Forensic Anthropology can be found in the Historical Archives of the University of Havana, in the file of José Giralt.

established a project to create and preserve a good library. After 1842, the position of Vice-president of the University was temporarily suppressed, and its salary allocated to buy new books for the library of the School of Law. The amount of books acquired by this mean is uncertain, but the strategy was apparently effective.³⁹⁸ The position was reinstated few years later, but under *honorarium* since its salary continued being used for the purchase of academic materials.³⁹⁹ Control over the literature and the curricula, however, remained in the government's hands. Francisco Campos López, natural from Canarias Islands and Chair of *Derecho Patrio* at the School of Law occupied this position for several years.⁴⁰⁰

The Spanish government controlled the programs of study offered by the School of Law. They consisted of three degrees: *Bachiller*, *Licenciado*, and Doctor. The *Bachiller* studied basic topics of law for the four first years of the career. *Licenciado* consisted of superior studies during the following two years, acquiring specialized knowledge of the law and becoming able to practice as a lawyer. The next program, Doctorate, required studies after the *Licenciatura* with concentration on certain topics or areas of the law.⁴⁰¹ The last degree incorporated into the School of Law by the Royal Order of September 9th, 1857, was the specialized program of *Notariado* that professionalized the legal work of *escribanos*.⁴⁰²

³⁹⁸ Anuario 1870-71, *Memoria acerca del estado de la enseñanza en la Universidad de la Habana en el curso 1869-1870* (Imprenta del Gobierno y Capitanía General, Habana, 1871), 9.

³⁹⁹ Anuario 1870-71, 9.

⁴⁰⁰ Olegario Negrín Fajardo, *Profesores Canarios en Cuba durante el siglo XIX* (Ediciones del Cabildo de Gran Canaria, 2000), 243.

⁴⁰¹ Anuario 1870-71, 8.

⁴⁰² Federico Soler y Castelló, *Diccionario de la legislación hipotecaria y notarial de España y ultramar, concordada con la del impuesto de derechos reales y transmisión de bienes con las disposiciones del derecho civil, mercantil e internacional referentes a las materias que la misma comprende*, Volumen II, Publisher G.

As part of the secularization, professors became public employees. Since the University had a direct subordination to the colonial government, law professors enjoyed the same social rank as other public officials. They could only be excused from their duties by the superior authorities of the colony and, sometimes, the Royal Council.⁴⁰³ In addition, being a Professor of the University of Havana was considered an honor, and was the reason why Diego José De la Torre, Francisco Campos López and the supernumerario Felipe Lima Renté complained when they were excluded from the annual chart of the university between 1864 and 1866 for unexplained reasons.⁴⁰⁴ This sense of honor of the professorate of the University of Havana corresponded to the prestige attached to the teaching of law, even more so as this became the only institution in Cuba authorized to offer legal training after the secularization process.

Another component of the educational reform of 1842 was the centralization of the teaching of law to the University of Havana. During the previous two decades, other institutions had offered courses on law in their programs such as the Royal and Conciliar Seminar of San Carlos y San Ambrosio in Havana and the Seminar of San Basilio Magno

Tejado y Cia., Madrid, Spain, 1884, 431. The same program of Notary Law was established in every University of the kingdom.

⁴⁰³ Pascual Salazar, for example, Chair of Roman Law since 1843 suffered from acute gastric fever and was often absent after 1844. AHUH. Exp. 810 foja 16. Documents produced by Pascual Pedro Salazar dated October 8th 1850 concerning his health conditions and status within the faculty; AHUH, Certificate by Dr. Julio Jacinto Le Riverend, dated Octubre 4th 1844, foja 3 Expediente 810, describing the illness suffered by the scholar, probably gastroenteritis; AHUH, Letter from the President of the University of Havana dated October 8th 1846 foja 7 Expediente 810; and AHN ULTRAMAR 21 Exp. 4. Leave of absence granted to P. Salazar, Professor at the University of Havana. The Capitan General sent confirmations to the Crown of the leave of absence granted to professor Salazar and, when he was unclear as to whether he had made the correct decision, he forwarded the question directly to the Royal Council. A Royal Order granted Salazar's leave of absence on April 4th of 1847. AHN ULTRAMAR 21, Exp. 4. Leave of absence granted to P. Salazar.

⁴⁰⁴ AHN ULTRAMAR, 147, Exp. 28 Claim by D. Diego de la Torre, D. Francisco Campos and D. Felipe Lima, Chairs of the School of Law of the University of Havana after the omission of their titles, degrees and honors in the charts of the faculty.

in Santiago de Cuba, along with the Royal Academies of Legislation and Jurisprudence in Havana and Puerto Príncipe.⁴⁰⁵ As per Pedro González Llorente: “Their life was short and their achievements infertile, and neither their actions, nor their traditions survived.”⁴⁰⁶ The legal learning in *Seminarios* was very basic, of low quality, and the material conditions were precarious.⁴⁰⁷ In addition, religious orders managed these institutions, which conflicted with the secular tenants that inspired the liberal reforms. Thereafter, they were no longer allowed to continue with their programs in law and the Spanish government closed San Basilio Magno arguing that it lacked the required licenses.⁴⁰⁸ The Seminario of San Carlos and San Ambrosio remained in place but only as an institution where students passed the courses of theology and philosophy before entering the university. The Seminar College of San Ildefonso in Puerto Rico experienced a similar fate.⁴⁰⁹ Colonial authorities decided to close these institutions rather than improving their teaching conditions and methods, and the teaching of law became exclusive to the University of Havana.

In spite of the prohibition on teaching law in the seminaries, the University of Havana was not the only institution from which future Cuban lawyers graduated. As part

⁴⁰⁵ Piqueras Arenas, José Antonio, *Sociedad civil y poder en Cuba: colonia y poscolonia*. Siglo XXI de España Editores. Madrid, España, 2005, 143; Portuondo Zúñiga, Olga y Rovira, Yoan, *El Colegio Seminario San Basilio Magno*, Editorial Oriente, Santiago de Cuba, 2000, 58; Certámen del Círculo de Abogados de La Habana, Imprenta Militar de la V. de Soler y Co, Havana, Cuba, 1880, 2.

⁴⁰⁶ Certámen del Círculo de Abogados de La Habana, Imprenta Militar de la V. de Soler y Co, Havana, Cuba, 1880, 2.

⁴⁰⁷ Portuando Zúñiga, Olga, *José Antonio Saco: eternamente polémico*, Editorial Oriente, Cuba, 2005, 194.

⁴⁰⁸ Bachiller y Morales, Antonio, *Apuntes para la historia de las letras y de la instrucción pública de la Isla de Cuba*, Tomos 1 – 3, Imprenta de P. Massana, Habana, Cuba, 1859, 52.

⁴⁰⁹ Anuario de la Universidad de la Habana, 1870-71, *Memoria acerca del estado de la enseñanza en la Universidad de la Habana en el curso 1869-1870* (Imprenta del Gobierno y Capitanía General, Habana, 1871), 10.

of the Spanish Empire, Cuba was interconnected with other universities. Many wealthy families sent their sons to study abroad. In Iberia, the Universities of Madrid and Seville were the main destination of Cuban born law students. The large majority of future lawyers from Cuba graduated from the Universidad Central in Madrid. The University of Seville, on the other hand, reached its highest number of Cuban students during the second half of the nineteenth century when 2% of the students were from America. Most of the Creole students had noble ancestry such as those from the Aguirre Fernández, Caballero Infante y Zuarzo and Carrillo de Albornoz families, part of the Cuban aristocracy. Other Iberian cities also received Cuban students of law such as Zaragoza and Barcelona.⁴¹⁰ Hence, the intellectual circulation from colony to metropolis was fluid, and influenced the legal community of the island.

During the years following secularization, the number of lawyers in Cuba multiplied dramatically. In just a few years, the number of lawyers increased over 40% jumping from 553 in 1841 to 751 in 1844.⁴¹¹ As reflected in the *Guías de Forasteros* of those years, the colonial government and the *Audiencia* granted a considerable number of licenses to practice during this period. Overall, this was a good economic period for Cuba when the production of sugar and other staples such as coffee had greatly increased.⁴¹² As the Cuban colonial economy prospered, the population grew and, in tandem with it, the

⁴¹⁰ Those were the cases of the José Martí and Carlos Manuel de Céspedes, respectively, two lawyers that actively organized and led the two Cuban wars for independence.

⁴¹¹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1841), 148 – 185; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 158 – 176, 189 - 199.

⁴¹² Louis Pérez, *Winds of Change: Hurricanes and the transformation of nineteenth century Cuba*, (University of North Carolina Press, Chapel Hill and London, 2001), 32 - 81.

number of lawyers multiplied. Just in Havana, 447 lawyers were listed in the *Guías* in 1844, over five times as many as King Ferdinand VII had allowed to practice law in the city in the late 1810s.⁴¹³

The excessive increase of the number of lawyers caused a post-graduated problem: an inadequate job market. During the 1830s, many law graduates still belonged to traditional families that often arranged a bureaucratic position for the recently established lawyer, as was the case of Bernardo Echavarría O’Gavan when became *síndico procurador* in 1833.⁴¹⁴ Better access to education gave to creoles that did not belong to the traditional local elites the opportunity to grow socially and economically by practicing as lawyers. The local bureaucracy, by contrast, had not expanded as much as needed to provide positions for all possible candidates. After the opening of two *Audiencias*, special tribunals, local courts and the colonial administration, the public sector still had limited vacancies for a competitive and rapidly growing profession.⁴¹⁵ In some cases, lawyers temporarily relocated to remote positions to boost their careers, such as Manuel Remón Zarco del Valle y Huet, who became fiscal of the *Audiencia* of Philippines before returning to Cuba as magistrate of the *Audiencia* in Havana.⁴¹⁶ Thus, a significant number of lawyers became

⁴¹³ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 158.

⁴¹⁴ Rafael Angel Cowley, *Los Tres Primeros Historiadores de la Isla de Cuba*, Vol. 1 (Editorial Pego, 1876), 248.

⁴¹⁵ The disperse and incomplete information available in the *Guías de Forasteros* during the 1830s and 1840s show that a larger number of individuals remain out of the public system, whereas most of the lawyers listed in the *Guías* during the 1800s and 1810s also held a public position somewhere in the administration.

⁴¹⁶ AHN ULTRAMAR 1668, Exp. 27 – 35. These are the professional files of Manuel Remón Zarco del Valle y Huet, and they show his attempts to boost his career between the 1820s and the 1830s during his stay in Manila.

exclusively private attorneys, and they started forming new professional clusters without the official supervision of the public functionary.

The existence of more lawyers in the private sector made it more difficult for the government to have effective control over them, especially in Havana. Unlike other major Cuban cities, such as Puerto Príncipe and Santiago de Cuba, Havana still lacked a *Colegio de Abogados*. Yet, local lawyers themselves implemented internal mechanisms of control. By 1842, for instance, since no *Colegio* or *Academia* was in operations, a system was formed as per initiative of the *Audiencia* of Havana.⁴¹⁷ There were four *ternas* working in Havana, each of them with three *examinadores* or evaluators. The system of *ternas* had its own Dean, and it also provided *supernumerarios* that would replace the *examinadores* if they were absent. The Dean of the *ternas* during the early 1840s was lawyer Sebastián Fernández de Velazco Aguiar.⁴¹⁸

Fernández de Velazco graduated from the School of Law of the Universidad Central in Madrid, and established his *estudio* in 1809.⁴¹⁹ Shortly after, Fernández de Velazco became *síndico procurador* in 1812, and again in 1815 and 1824, when he assumed the position in substitution of the liberals who abandoned local offices upon the restoration of Ferdinand VII.⁴²⁰ He was also a faculty member of jurisprudence at the

⁴¹⁷ AHN ULTRAMAR 264, Exp. 14. Personal file of Francisco Campos López including relation of merits and his services to the Spanish Crown as colonial official and awards. Campos' record of services mentions the opening of the *ternas* by the *Audiencia*, when he was the first vocal of this system.

⁴¹⁸ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1842), 148 – 185; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1843), 158 – 176, 189 - 199.

⁴¹⁹ AHN CONSEJOS, 13378, Exp. 104. File containing the record of merits of Fernández de Velazco.

⁴²⁰ Rafael Angel Cowley, *Los Tres Primeros Historiadores de la Isla de Cuba*, Vol. 1 (Editorial Pego, 1876), 244 – 45.

University of Havana from 1810, where he earned the position of *Censor Regio* of the Tribunal Court during the 1830s.⁴²¹ In that capacity, he was in charge of evaluating and reviewing dissertations before being printed and distributed to insure the avoidance of immoralities, and contradictions with the Crown by reporting those cases for punishment to the local authorities.⁴²² A defender of Spanish colonialism over the island, Fernández de Velazco was selected as representative of the island to the Spanish Cortes of 1834.⁴²³ Fernandez de Velazco's personal impact on the *ternas* remains unknown, but it was significant that a creole rather than a *peninsular* headed them. His conservative stance and experience as overseer of the academic work at the University of Havana made of him a perfect candidate for Dean of the *ternas* with the power to control the ethical practice of the law and suffocate any manifestations of radical liberalism among legal professionals. On the other hand, Fernandez de Velazco was a creole, proving that an emergent generation of naturales from Cuba was reaching a space in a society previously mostly controlled by peninsulares.

⁴²¹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1834), 110.

⁴²² See Royal Provisions dated September 6th, 1770, and May 25th, 1784 in *Los Códigos Españoles, Concordados y Anotados: Novísima Recopilación de las Leyes de España*. Vol 3 (Imprenta de la Publicidad, 1850), 26 – 27. “Revea y examine todas las conclusiones que se hubieren de defender en ellas, antes de imprimirse y repartirse; y no permita, que se defienda ni enseñe doctrina alguna contraria a la autoridad (...) dando cuenta al nuestro consejo de cualquier contravención para su castigo, e inhabilitar a los contraventores para todo ascenso.”

⁴²³ AHN ULTRAMAR, 4603, Exp. 21 File of the general elections of deputies in Cortes for Cuba, Puerto Rico and Philippines by Royal Decree May 20th, 1834, resulting elected Juan Montalvo Castillo, Sebastian Fernandez de Velazco, Fernando O'Reilly, and Nicolás Escovedo; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1847), 183.

Cuban Lawyers and the Socio-Political Crisis: the Issue of Annexationism.

While lawyers grew as a professional group, they started creating a social and family network through the bond of marriage. This was a pre-liberal mechanism of the elites to preserve lineage and patrimony, and the new ascendant elements of Cuban society adopted and continued this practice. The connection between the Ponces and the Chaples provides an example of the formation of familiar nexus between lawyers. In 1784, María Josefa Rosales Jiménez married Juan Ponce Mesa, a Spaniard who had recently moved to Havana. From this marriage, they had 5 children. Their youngest son, José de los Dolores Teclo Ponce Rosales, was born in 1809 and became an attorney in 1836.⁴²⁴ Before graduating, in 1835, José de los Dolores married María Isabel Abrahantes López and their issue included, among others, Juan Felipe, who became *procurador*, and Manuel de Jesús, who was a lawyer. Another son of Juan Ponce, Juan José Rafael, was born in 1803, and had two sons, Manuel and Alberto, who also studied law.⁴²⁵

As the number of lawyers grew within the Ponce family, the Chaples already had an important network that included legal professionals of every kind. Descending from Austrian emigrants who established themselves in Havana during the eighteenth century, Captain Gaspar Chaple earned significant wealth from the exploitation of estates they acquired in Western Cuba. His son, Gaspar José, born in 1761, became a functionary as official of the Royal Factory of Tobacco in the early nineteenth century.⁴²⁶ Gaspar José's issue comprised a generation of four lawyers: Gaspar Joaquín, José Mariano, Juan

⁴²⁴ Rafael Nieto Cortadellas, *Genealogías Habaneras*, Vol. 1 (Hidalguía, 1979), 47.

⁴²⁵ *Ibid*, 52.

⁴²⁶ Rafael Nieto Cortadellas, *Genealogías Habaneras*, Vol. 2 (Hidalguía, 1980), 43.

Francisco, and Bernardo Joaquín, graduated in the University of Havana in 1822, 1822, 1829 and 1843, respectively.⁴²⁷ This generation connected to other families of legal professionals through marriage. José Mariano, for example, married in 1833 to María Regla Alejandra Martínez de Campos, daughter to the lawyer and *oidor* Nicolás Froilán Martínez de Campos.⁴²⁸ From their issue, Mariano Onofre de Jesús also became a lawyer, while Santiago Liborio and Calixto Eduardo married to the sisters Emilia Isabel and Julia María García de Lavín, respectively, who were daughters of the lawyer José M. Julio García de Lavín.⁴²⁹ Bernardo Joaquín Chaple, on the other hand, married in 1846 to María Inés Eustacia de Ayala, daughter of Manuel José Cirilo de Ayala y Quesada, Highest Secretary of Government and Justice of Cuba.⁴³⁰ Those alliances affirmed that the legal profession, in spite of its growth, remained a patriarchal institution, where women mostly acted as mothers, daughters, or sisters of lawyers.

Having incorporated a significant number of lawyers and officials into its family network, the Chaple family also connected with the Ponces. Another son of Gaspar José Chaple, the medical doctor Ramón María, married in 1832 to the daughter of *procurador* Manuel Antonio Santiago Montiel. From this union, Ramón María had two sons who studied law: Gaspar Lorenzo, born in 1833, and Domingo Tomás, in 1841.⁴³¹ Gaspar Lorenzo married in 1858 Manuela de Jesús Suárez, daughter of the Administrator of Rents

⁴²⁷ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1842), 148 – 185

⁴²⁸ Nieto, 52.

⁴²⁹ *Ibid*, 54.

⁴³⁰ *Ibid*, 49.

⁴³¹ *Ibid*, 61.

Francisco de Paula Suárez, and their issue comprised two more lawyers, Guillermo Serafín and Eduardo Jerónimo Miguel, and two sisters who married to lawyers: María Leocadia that married Domingo Méndez Capote, and Margarita Trinidad, who married Juan Carlos Andreu del Junco.⁴³² Similarly, the medical doctor Ramón Nazario and María de la Trinidad, son and daughter of Ramón María Chaple, married Manuela de Jesús Clorinda and Manuel de Jesús Ponce, daughter and son, respectively, of the lawyer José de los Dolores Ponce Rosales. Thus, the marriage of two pairs of siblings connected two emerging dynasties of the local legal community, proving how the increase of the number of lawyers not only had a professional, but also a social and familiar impact throughout the island during the nineteenth century.

The increase in the number of lawyers led to the enactment of laws to control this professional group during the 1840s. A Royal Order partially reinstated the previous rule of May 28th, 1838, which Espartero had repealed in 1841. This statute, dated June 6th, 1844, ratified the requirements of *vecindad* and domicile to be an attorney, including the rest of the conditions and the authorization of the local courts.⁴³³ Also, *Audiencias* were commanded to enforce the requirements to practice more strictly. For example, in 1845, attorney Justo de la Torre was refused permission to represent a client because he had failed to obtain authorization from the local tribunals before he started practicing.⁴³⁴ While the

⁴³² Nieto, 65 – 66.

⁴³³ Teodoro Gómez Herrero, *Diccionario Guía legislativo español*, (Lib. De D. Victoriano Suarez, Madrid, 1902), 417. Real Decreto de 6 de Noviembre de 1843, declarando suficiente para ejercer la abogacía el título de Licenciado en Jurisprudencia. Disposición 204 del Tomo 31, página 334 (Gobernación); and Real Decreto de 6 de Junio de 1844, restableciendo en toda su fuerza y vigor el artículo primero de los estatutos publicados en 28 de Marzo de 1838 para el régimen de los abogados. Disposición 344 del Tomo 32 página 744 (Gracia y Justicia).

⁴³⁴ AHN ULTRAMAR 17, Expediente 5. This file contains a request sent by the *Audiencia* of Havana requesting the *Ministerio de Gracia y Justicia* in Spain to confirm their decision to forbid lawyers to practice

Audiencias received an increasing number of applications for admission to legal practice, the same restrictive policy applied to all lawyers including those who had graduated on the Peninsula and new generations of Cubans coming from the reformed University of Havana.

As this was happening, a deep economic crisis affected the island. The hurricanes of 1841, 1842, 1844 and 1846 destroyed the colonial economy and increased discontent among both slaves and masters alike.⁴³⁵ In 1844, Governor Leopoldo O'Donnell, therefore, ordered the repression of slaves known as *La Escalera* that consisted of bounding slave suspects to ladders and whipping them while under interrogation.⁴³⁶ The extremely cruel treatment of many Afro-Cubans (both slave and free) put into question the methods of Spanish colonialism and triggered progressive liberalism in Cuba, including calls for the abolition of slavery.⁴³⁷

To evaluate the damages after the hurricanes of 1840s, Spain ordered a census of the population of Cuba in 1846. This census showed, among other data, that for approximately one million inhabitants in Cuba, there were at the time 823 lawyers, almost

in Cuba without having been admitted by them among other requirements. The file is made after Justo de la Torre was prohibited to practice because he did not fulfill the established requirements.

⁴³⁵ Louis Pérez, *Winds of Change: Hurricanes and the transformation of nineteenth century Cuba*, (University of North Carolina Press, Chapel Hill and London, 2001), 32 - 81. In this book, Pérez describes the hurricanes that impacted Cuba during the nineteenth century, focusing in the storms of the decade of 1840s due to their devastating effect on the economy. He also mentions the devastation of housing and the implications this had for the lifestyles of both free and slave people.

⁴³⁶ About *La Escalera*, see Michele Reid-Vazquez, *The Year of the Lash: Free People of Color in Cuba and the Nineteenth Century Atlantic World*, University of Georgia Press, 2011. The repression received the name of *La Escalera* because it means ladder in Spanish and slave suspects were bound to ladders and whipped with the lash when they were being interrogated.

⁴³⁷ Rafael E. Tarragó, *Experiencias políticas de los cubanos en la Cuba española 1512 – 1898* (Editorial Puvill Libros, Barcelona, 1996), 53.

half of whom resided in Havana.⁴³⁸ In a letter dated March 10th, 1847, the Sub-secretary of Government of Isabel II informed Captain General O'Donnell that those statistics showed that the current number of lawyers on the island was excessive. The letter stated that lawyers had become "an obstacle for the administration of justice" and requested O'Donnell work with the *Audiencias* of Puerto Príncipe and Havana in taking any required actions to prevent the further increase in the number of legal professionals in Cuba.⁴³⁹ The letter was a reminiscent of the policies typical of the pre-liberal period that aimed to reduce the number of lawyers on the island. As his predecessors, O'Donnell could not effectively restrict an already established legal community. Besides, lawyers turned into central elements of the political debates in Cuba during the late 1840s.

As was the case on the Iberian Peninsula, Cuban liberals split between moderate and progressive. The moderate group was reformist. Its members wanted to resolve economic, social and political problems on the island while keeping it as a Spanish colony. A more radical group, however, demanded total separation from Spain.⁴⁴⁰ Among those radicals was Juan Ramírez de Estenoz, one of the most prominent attorneys in Havana. Estenoz was charged with violation of press laws during the late 1830s when he wrote and published some pamphlets containing legal analysis on constitutional topics, which he did not previously submit for censorship. In 1836, Estenoz had authored "To the Islands of Cuba and Puerto Rico: study of Public Law," calling for independence in the two

⁴³⁸ Pérez Murillo, María Dolores, *Aspectos demográficos y sociales de la Isla de Cuba en la primera mitad del siglo XIX* (Servicio de Publicaciones, Universidad de Cádiz, 1988), 167.

⁴³⁹ ANC Reales Ordenes y Cédulas, Orden 92, Legajo 144. File created to promote plans to prevent the harm caused by the excessive number of lawyers in Cuba.

⁴⁴⁰ José María Aguilera Manzano, *Las Corrientes liberales habaneras a través de las publicaciones periódicas de la primera mitad del siglo XIX*, Cuban Studies, Vol. 38 (2007), 127.

territories. In 1837, he also authored the “Manifest to the Spanish Nation and its Constitutional Government.” In these pieces, Estenoz addressed two issues: whether the islands of Cuba and Puerto Rico should be independent from the Spanish government; and how Spain was the main cause of anti-Spanish insurgency overseas. He advanced the ideas that the two Caribbean islands would become independent, forced by desperation and without any premeditation. Estenoz also claimed that bureaucracy was the main enemy of the Crown in the colonies, because it promoted corruption and stopped the economic and social development of the islands.⁴⁴¹ The local authorities prosecuted Estenoz for these publications, found him guilty of *infidencia*, and sent him into exile.⁴⁴²

Estenoz was not alone. Other contemporary attorneys such as Domingo del Monte, Manuel Nicolás de Escovedo Rivero, and José Antonio Saco also promoted liberal ideas. Escovedo, for example, was singled out as the most liberal among Cuban lawyers of his time.⁴⁴³ All of them were Creoles lawyers established in Havana, although they were born in different places: Escovedo in Havana, Saco in Santiago de Cuba, and Del Monte in Venezuela. All of them were exposed to liberal ideology: Del Monte studied in the *Colegio de San Carlos*, and Saco in *San Basilio Magno*, and later also in *San Carlos*, the institution where progressive Félix Varela had created the Chair of Constitutional Law in 1820. Escovedo, born in Havana on September 10th, 1795, taught at the University of Havana

⁴⁴¹ AHN ULTRAMAR 4612, Exp. 18. File containing the documents of the ejection from Cuba of the lawyer Juan Ramírez de Estenoz charged with abuse of the right of press.

⁴⁴² AHN ULTRAMAR 4612, Exp. 18. Judicial remedies filed by Estenoz’s representatives shows how lawyers accused of political crimes tried to defend themselves and negated the charges against them based on current legal mechanisms. The pamphlets were named *A las Islas de Cuba y Puerto Rico: estudio de Derecho Público* and *Manifiesto a la Nación española y a su gobierno constitucional*, respectively.

⁴⁴³ About the life of Escovedo, see Santovenia, Emeterio Santiago, *Escovedo: el ciego que vio claro*, Imprenta Molina y Cia, 1937.

from 1817 and, being a disciple of Varela, inherited his Chair of Constitutional Law in San Carlos.⁴⁴⁴ All of these lawyers became famous for their speeches and writings, which in some cases led them to be accused of political crimes. Saco, for example, was prosecuted for the illegal printing and distribution of pamphlets deemed politically dangerous and forbidden by Royal Order of June 5th, 1837.⁴⁴⁵ Escovedo, on the other hand, published his political and liberal articles in the newspaper “*El Observador Habanero*.”⁴⁴⁶ Both Saco and Escovedo, expelled from Cuba for their liberal positions during the government of Miguel Tacón during the late 1830s, eventually moved to France where they lived for a long part of their lives.⁴⁴⁷ Escovedo suffered weak health, enduring blindness for most of his life, and passed away in Paris on May 11th, 1840, at age 44. Saco outlived Escovedo by thirty years.⁴⁴⁸

Other lawyers pursued an even more radical liberal agenda. This was the case, for example, of Joaquín de Agüero y Agüero, born in Puerto Príncipe in 1816. He studied law in Havana, and returned to his hometown upon his father’s death. Agüero inherited his father’s estate and dedicated his life to running this property, rather than practicing as an attorney, thus he was not a member of the *Colegio de Abogados* from this region. In 1843,

⁴⁴⁴ Emeterio Santovenia and Raul M. Shelton, *Cuba y su historia*, Vol. 1 (Rema Press, Miami, 1965), 373.

⁴⁴⁵ AHN ULTRAMAR Legajo 4614, Exp. 31; and ULTRAMAR 4627, Exp. 1. The articles are entitled *Paralelo entre la isla de Cuba y algunas colonias inglesas, Exámen analítico del informe de la Comisión especial nombrada por las Cortes, sobre la exclusión de los actuales y futuros diputados de Ultramar, y sobre la necesidad de regir aquellos países por leyes especiales* and *Mi primera pregunta. ¿La abolición del comercio de esclavos africanos arruinará o atrasará la agricultura cubana? Dedicada a los hacendados de la Isla de Cuba. Su compatriota José Antonio Saco*, respectively.

⁴⁴⁶ Santovenia, 373.

⁴⁴⁷ *Ibid*, 379.

⁴⁴⁸ *Ibid*, 373.

Agüero freed his slaves, and also established a free public school for the children of poor families. Being targeted as a suspect of *infidencia* by the local authorities, Agüero went into a three-month exile in the United States, but he decided to return to fight for the independence of Cuba. He returned to Puerto Príncipe and started participating in anti-Spanish conspiracies. By 1849, Agüero was among the leaders of the *Sociedad Libertadora de Puerto Príncipe*, and headed small revolts in the center of the island. Being declared *infidente* by the Spanish Crown, Agüero tried to leave Cuba for the United States again, but he was captured and shot in 1851.⁴⁴⁹

Following a different course of action, another segment of the population of the island, including several lawyers, supported the annexation of Cuba to the United States of America.⁴⁵⁰ Cubans had voluntarily migrated to the United States since the eighteenth century establishing large communities in Tampa and Key West, while there were many other Cubans living in New York, Louisiana and Philadelphia after being forced into exile. The plan of annexation found support in the expansionist project of the United States, and American President James Polk backed the idea in 1845.⁴⁵¹ This doctrine found support among exiled Cubans, as well as the Southern States and American companies with commercial interests on the island. In addition to the commercial boost, the annexation involved the promise to preserve slavery, an idea that fulfilled the expectation of many

⁴⁴⁹ Jorge Juárez Cano, *Hombres del 51*, Imprenta El Siglo XX, A. Muñiz y Hno, La Habana, 1930. This work explains the role played by Joaquín de Arango in the movement against Spanish colonialism in Cuba in 1851.

⁴⁵⁰ Pérez, Louis, *Cuba and the United States: Ties of Singular Intimacy*, 3rd edition, University of Georgia Press, Athens, Georgia, 2003, 29 – 54.

⁴⁵¹ Pérez, *Cuba and the United States: Ties of Singular Intimacy*, 29 – 54.

creoles, including multiple lawyers benefitting from the slave system.⁴⁵² Annexationist propaganda continued during the following years, while the pro-United States feelings amongst Cubans increased in tandem.⁴⁵³ In Cuba, Captain General O'Donnell also opened Cuban ports to United States' products to resolve food and supplies shortages after the hurricanes. This policy enlarged the influence of the United States on the island, and amplified the idea of many Cubans in favor of the annexation to their Northern neighbor.⁴⁵⁴

In Havana, annexationist conspirators founded the *Club Anexionista de La Habana* in 1847 led by José Luis Alfonso García de Medina, Cristóbal Madam, Ramón de Palma, Domingo Goicuría, José Antonio Echevarría and Rafael María Mendive. Intellectuals, landowners, and merchants mostly formed this group. It also included lawyers such as Anacleto Bermudez Pérez de Corcho and Cirilo Villaverde, along with other creoles with some legal education like Francisco Frías el Conde de Pozos Dulces.⁴⁵⁵ Frías completed

⁴⁵² To illustrate the connections between Southern slavery states and Cuba, see Adam Rothman, *Beyond Freedoms' Reach: A Kidnapping in the Twilight of Slavery* (Harvard University Press, 2015), 94 - 98. It illustrates how Southern slaveholders had connections with Cuba through trade and considered the annexation of the island to preserve slavery.

⁴⁵³ AHN, ULTRAMAR 5072, Exp. 14. Letter dated November 19th, 1854, from the Capitan General of the Island of Puerto Rico to the Spanish Government making them aware of the pro-annexationist feelings in Cuba and Puerto Rico.

⁴⁵⁴ Pérez, *Winds of Change*, 131 - 138. Pérez states that the duration of a travel between Spain and Cuba during this time was six-weeks. For that reason, Spanish government did not hear about the hurricane of 1844, for instance, until two months after it had hit the island. The author qualifies Spanish regime as "useless" based on this incapacity to provide timely answers to Cubans' needs. For example, on December 31, 1846, a month and a half after the occurrence of the hurricane, "Governor O'Donnell discovered that the Court in Madrid was still uninformed about conditions in Cuba and wrote indignantly to complain about the delay in the arrival of the communications." Pérez, *Winds of Change*, 135. During the eighteenth century, there were manifestations of inconformity and disagreement by Cuban population regarding Spanish colonial economic policy based on three major aspects: maintain Cuban colonial status, economy based mostly in production of sugar, and the slavery as predominant labor system. On this see Sherry Johnson, *The Social Transformation of Eighteenth-Century Cuba* (University Press of Florida, Florida, Gainesville), 180.

⁴⁵⁵ Leopoldo Fornés Bonavía. *Cuba, cronología: cinco siglos de historia, política y cultura* (Editorial Verbum, Madrid, Spain, 2003), 64.

some legal classes during his studies at the *Seminario San Carlos y San Ambrosio*, but he dedicated most of his life to running his family's properties.⁴⁵⁶ Bermudez graduated from Universidad Central in Spain in 1829, and had practiced as a lawyer for two decades.⁴⁵⁷ Villaverde graduated in 1834 and became a lawyer in Havana in the law firm of Santiago Bombalier, before dedicating himself full time to literature and poetry. Later on, Villaverde went into exile in the United States initially moving to Louisiana and, later, to New York where he formed part of the *Junta Revolucionaria*, a group of exiled liberals who conspired against Spanish colonialism over Cuba.⁴⁵⁸ Because of his vocation for literature and journalism, Villaverde managed the newspaper *La Verdad*, voice of the Cuban annexationists, an outlet published and circulated in New York starting in 1849.⁴⁵⁹ Hence, annexationist ideas spread among lawyers established in Cuba, and also those in exile

Resenting growing controls by the Spanish government, lawyers started portraying Spain as a backward colonial power at a moment when pro-annexationist ideas made of the United States a symbol of commerce, freedom, and progress. For that reason, lawyers seem to have gradually engaged more actively in the annexationist movement. Lawyer

⁴⁵⁶ Beatriz Bernal Gómez, *Cuba: Juristas de la independencia* in José María Pérez Collados and Rodríguez Barbosa, Samuel (editors), *Juristas de la independencia* (Editorial Marcial Pons, España, Madrid, 2012), 263.

⁴⁵⁷ About Anacleto Bermudez see his profesional files in AGI under the following classifications Ultramar 355 N. 90, Ultramar 38 N.33, and ULTRAMAR 355 N.90 They are all named *Expediente de Anacleto Bermudez* and describes different moments of his professional career such a transference of credits to the Spanish University, his return from Spain and some of his practice as a lawyer through a civil case he was representing.

⁴⁵⁸ AHN ULTRAMAR 4634, Exp. 55. This file contains communications sent by the Governor of Seville during 1849 to the Spanish *Ministerio de Gobernación* making them aware of the pro-annexationist trends regarding Cuba. With this purpose the communication attached three issues of the newspaper *La Verdad* with dates January 21st, February 8th and March 17th, 1849 with annexationist articles, there is also the "Supplement to N° 31 of La Verdad," annexed to the March 17th issue.

⁴⁵⁹ Fornés Bonavía, *Cuba, cronología: cinco siglos de historia, política y cultura*, 64 - 65.

Santiago Bombalier, for example, was popular for being the public defender of almost every political prisoner prosecuted in Havana and became the President of the *Club Anexionista de La Habana* in 1850. Later, he was imprisoned several times between 1851 and 1853, and charged with *conspiracy* because he exchanged letters with Narciso López, leader of Cuban annexationists.⁴⁶⁰ Those letters were not found at Bombalier's house; but local authorities did not accept his claims of innocence and, alleging a high level of involvement with the conspirators on his part, sent him into exile.⁴⁶¹

Another prestigious lawyer frequently hired to represent exiled Cubans on the island was Maximo Du Bouchet Mendive. He was the *apoderado general* of notable Cubans who went into exile or migrated to the United States, such as the members of the families Mora and Jorrín. Du Bouchet resided next to his law office. The frequent presence of American visitors at his house during the 1850s drew the attention of the colonial authorities, which regarded Du Bouchet's house as a center of conspiracy against Spain and started checking on it constantly. To avoid the police surveillance, Du Bouchet temporarily moved his office to the house of the Consulate General of the United States of America in Havana. At that point, Du Bouchet was considered an annexationist, and was eventually prosecuted and deported to Cádiz. He never accepted those charges and, despite the evidence used against him, he tried to prove his loyalty to Spain. In his defense, Du Bouchet requested to be sent to Puerto Rico instead of Cádiz, so he could keep practicing law; but his request was declined. From Spain, Du Bouchet started communicating with

⁴⁶⁰ Jorge Juárez Cano, *Hombres del 51*, Imprenta El Siglo XX, A. Muñiz y Hno, La Habana, 1930.

⁴⁶¹ AHN ULTRAMAR 4645, Exp. 36. File about the exile of Santiago Bombalier because of his connections with Narciso Lopez.

the *Junta Revolucionaria* in New York becoming one of its agents out of the United States.⁴⁶²

In the middle of the annexationist movement in the early 1850s, its leader, Narciso Lopez, drafted three constitutional proposals creating a transitional political organization that would prepare Cuba to move from being a Spanish possession to becoming an American territory. The most important of those proposals had 23 articles and created a provisional government that joined the executive and legislative functions in a collegiate body integrated by six notable residents of the island. The only function of this government would be to call for a Constituent Assembly for the independent state of Cuba. This draft also contained a large number of political and civil rights such as free trade, press, speech and private property.⁴⁶³

Of course, not every lawyer in Havana embraced annexationist ideas. The movement found its major critic in aforementioned liberal José Antonio Saco. He realized there was a growing pro-United States movement among Cubans and explained it in his article “*Ideas on the incorporation of Cuba to the United States*,” in 1848.⁴⁶⁴ In this document, Saco acknowledges that many Cubans wished to see the island joining the United States as a Southern state of the Union, with the possibility to keep slavery and a

⁴⁶² AHN ULTRAMAR 4765, Exp. 43. This is a compilation of documents including letters and orders related to Máximo DuBouchet Mendive. Most of them consist in the criminal file against him opened by the colonial authorities under the crime of *infidencia*. It also includes pleas of innocence presented by his lawyer, as well as several requests made by him to be moved to different cities during his deportation.

⁴⁶³ Carreras Collado, Julio, *Historia del Estado y del Derecho en Cuba*, (Editora Política, Havana, 1981), 170. Also see Enrique Hernández Corujo, *Historia Constitucional de Cuba*, (Compañía Editora de Libros y Folletos, Havana), 195 and 196; and Emilio Portell Vila, *Narciso Lopez y su época*, Tomo II (Havana: Cultural, S.A., 1930), 101.

⁴⁶⁴ AHN ULTRAMAR 4629, Exp. 26. File containing documents related to the prosecution and prohibition of a pamphlet written by Saco whose circulation was forbidden in Cuba during the 1850s. This pamphlet was *Ideas sobre la incorporación de Cuba en los Estados Unidos*.

plantation economy. Saco also explains the inconveniences that this annexation as well as the continuity of the slave system would represent for Cuba; inconveniences which he rejected.⁴⁶⁵ A progressive liberal, Saco's ideas against annexationism also contradicted the Spanish economic strategy regarding Cuba, including the preservation of slavery to make sugar production possible.

Other lawyers also rose against annexationism. That was the case of creole Antonio González Ponce de Llorente, a defender of Spanish colonialism over the island. In 1852, Ponce de Llorente requested authorization to circulate an article he had written titled "*What is annexation?*" in which he examined the problems that joining the United States could bring to the island. He argued in particular that Cuba would lose its identity and socio-economic stability by entering into a possible civil war that would destroy the country. At the same time, Ponce de Llorente advocated for the prevalence of Spanish culture and enlightenment, denouncing how the United States wanted to expand over South America, or what he called "the lands of Columbus." In spite of being anti-independentist, Ponce de Llorente embraces some liberal ideas. He begins his piece with a quote from José Antonio Saco, advancing a clear liberal message in favor of freedom of speech: "In my favor, I invoke the right that everyone has to express their ideas, and as I am indulgent even with opinions opposed to mine, today I claim for me not the indulgence that I grant to others, but just their tolerance."⁴⁶⁶ In 1852, he also wrote "*Political analysis about the current circumstances of the island of Cuba*," and "*Message to the President of the United States*"

⁴⁶⁵ Saco, José A., *Ideas sobre la incorporación de Cuba en los Estados Unidos* in Monal, Isabel and Olivia Miranda, *Pensamiento Cubano siglo XIX*, Editorial de Ciencias Sociales, La Habana, 2002.

⁴⁶⁶ Antonio González Ponce de Llorente *¿Qué es la anexión?: consideraciones sobre la pretendida unión de la Isla de Cuba a la República de los Estados-Unidos de América*, (Imprenta de Antonio Maria Dávila, 1852), 1.

in 1853, with a similar discourse against annexation and defending the Spanish identity against the growing American presence.⁴⁶⁷ As a reward for his loyalist political activity, the Captain General appointed Ponce de Llorente as Secretary of Government. With his claims, Ponce de Llorente expressed his political views indicating that liberalism did not necessarily imply the breaking with Spanish control over Cuba, and that local authorities could tolerate liberal ideas, such as freedom of speech, as long as they supported Spanish colonialism on the island.

Lawyers and Associations in the 1840s and 1850s

Political affiliations took shape and were enhanced as lawyers started creating professional associations, especially in Havana. By the end of the 1840s, there were approximately 880 lawyers in Cuba.⁴⁶⁸ The *Guía de Forasteros* of 1847 referred to the presence of lawyers in 26 towns across the island. Some cities concentrated most of these professionals, including Havana with 463, Puerto Príncipe with 83, and Santiago de Cuba with 79.⁴⁶⁹ Also by 1847, there were seven *Colegios of Abogados* on the island including Puerto Príncipe, Santiago, Bayamo, Trinidad, Sancti Spiritus, Cienfuegos, and most recently Matanzas, which had opened in 1846 with 45 members.⁴⁷⁰ Although lacking a formal *Colegio*, lawyers in Havana still created other professional organizations, the

⁴⁶⁷ AHN, ULTRAMAR 4638, Exp. 5. File containing the authorization issued by the Spanish government to authorize the publication of the article “What is the annexation?,” and promoting its author, González Ponce de Llorente.

⁴⁶⁸ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1850), 138 – 176.

⁴⁶⁹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1847), 190 – 229.

⁴⁷⁰ The attorney José María Govín was its Dean. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1844), 197 – 198.

Sociedad de Socorro Mutuos de Abogados, in 1848.⁴⁷¹ This institution would provide economic support to lawyers, their widows, children and parents in case of need.⁴⁷²

The creation of professional organizations during the 1840s was not exclusive to lawyers, but also *procuradores* opened their *Colegio* in Havana. By Royal Order dated February 25th, 1845, Queen Isabel II authorized the opening of a *Colegio de Procuradores* in the Cuban capital.⁴⁷³ During the first half of the nineteenth century, *procuradores* had continued offering their services and slightly increasing their number, although lawyers showed a faster growth as a professional group. In Havana, there were 136 lawyers and 10 *procuradores* in 1820, and 210 lawyers and 15 *procuradores* in 1830.⁴⁷⁴ Despite the fact that *procuradores* remained a small group, the Spanish government granted their request to open a *Colegio*. This was viewed as a mechanism to enhance their professional ethic at a moment when they still filed a significant portion of the cases in Cuban courts.⁴⁷⁵ The

⁴⁷¹ Martínez Alcubilla, *Diccionario de la Administración Española*, 64. Estatutos para el Colegio de Abogados en el Reino de Real Orden de 28 de Mayo de 1838. Art. 35. Invita asimismo el gobierno a todos los abogados a que formen una asociación de Socorros Mutuos para si, sus viudad e hijos; pero se abstiene de fijar reglas que deben ser convencionales, reservándose remover los obstaculos que se opongan a estas benéficas asociaciones, a cuyo fin, y para los demás efectos correspondientes se le remitirán por el Colegio o individuos que se asocien, copia del acta y estatutos que se formen. Joaquín José García, *Protocolo de Antigüedades, literaria, agricultura, industria y comercio*, T. 1 (Imprenta de M. Soler, Havana, 1845), 145; and ANC Gobierno Superior Civil, Orden 11188, Legajo 327. File containing the statutes for the Sociedad de Socorros Mutuos for lawyers in Cuba.

⁴⁷² Teodoro Gómez Herrero, *Diccionario-guía legislativo español*, Vol.1, Part 1 (Librería de D. Victoriano Suárez, Madrid, 1902), 417. Real Orden de 5 de Julio de 1847, mandado que se inserten en el Boletín Oficial de las provincias los anuncios de la Sociedad de Socorros Mutuos de Jurisconsultos que sean remitidos a los jefes políticos por las comisiones de distrito. Disposición 430 del Tomo 41 página 284 (Gobernación).

⁴⁷³ AHN ULTRAMAR 4620 Exp. 14, File for the creation of the *Colegio de Procuradores* in Havana, as per the request of the *procuradores* of this city.

⁴⁷⁴ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Havana, years of 1820 and 1830.

⁴⁷⁵ AHN ULTRAMAR 1652 Exp. 25, File initiated in 1844 by the *procuradores* of Havana for the creation of a *Colegio* in this city.

installation of the *Colegio de Procuradores* took place on April 22nd, 1845, with 17 members.⁴⁷⁶ At that moment, there were 450 lawyers in Havana.

Facing the increase in the number of lawyers in Cuba, the Spanish government reaffirmed its policy to limit their presence in the colony. The colonial government had granted 38 permissions in 1842 for lawyers to open their practice in Cuba. In 1843, this number increased to 48, and in 1844 there were 55 new lawyers authorized. Restrictions became stricter since 1848 when colonial authorities only granted license to 13 lawyers. This policy became stricter when Captain General Federico Roncali Ceruti received a letter from Madrid on March 7th, 1849, with new orders to reduce the number of lawyers on the island.⁴⁷⁷ As a result, only 12 lawyers received authorization to open their practice in 1849, and 7 lawyers in 1851.⁴⁷⁸ The number of lawyers did not start declining immediately, since recently granted authorizations were not revoked. In any case, a significant portion of the large group of lawyers established in Havana started showing its discontent with Spanish colonialism.

The idea that there were many lawyers, at least in Havana, was not exclusive to the Spanish authorities. José Luis Alfonso y García de Medina, a liberal creole of noble ancestry, was pleased when Domingo del Monte abandoned the profession of lawyer and

⁴⁷⁶ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1845), 208 - 209. The members of the *Colegio* were: Dean Francisco Barranco, First Depute Miguel de Vargas Machuca, Second Depute Luis Caballero, Third Depute Ramón García, Fourth Depute Juan Valdes Castillo, Collector Joaquín Valdés Betancourt, Treasurer Bonifacio Valerio, Secretary José Dobarganes, and members José de la Paz, Clemente Calero, Mariano Moya, Miguel Tariche, Arcadio Lamas, José Machado Ramírez, Cosme González de Valle, Pascual Rodríguez and José de Matos.

⁴⁷⁷ ANC Reales Ordenes y Cédulas, Orden 106, Legajo 146, Royal Order about the excessive number of lawyers in Cuba.

⁴⁷⁸ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1853), 135 – 141.

stated: “every patriot should take care first, and with all the strength of its spirit, to walk away from the [legal] forum and the slavery of the blacks, the two largest calamities that originate educative vices and the shameful depravity of Cuban society.”⁴⁷⁹ Other liberal creole lawyers shared the opinion that there were too many legal professionals in the capital. José Antonio Saco, for example, complained about the abundance of lawyers in Cuba, and claimed that this number created vagrancy among many young people who joined the profession expecting to become rich rather than following an ethical practice.⁴⁸⁰ The number of lawyers, hence, was even seen not only as a political but also as a social problem, and the Spanish establishment attempted to control them once more.

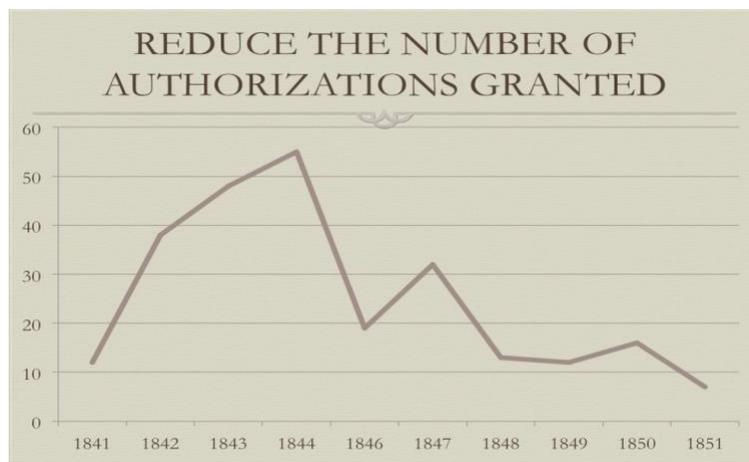


Table No. 9 Lawyers authorized to work in Havana (1840 – 1852).

While lawyers split over annexation, the local government finally ordered the creation of the *Colegio de Abogados* in Havana. The immediate trigger of this idea came from the temporary suppression of the *Audiencia* of Puerto Príncipe in September 30th,

⁴⁷⁹ Santovenia, 392. “Todo patriota debía ocuparse primeramente y con todas las fuerzas de su espíritu de alejarse del foro y de la esclavitud de los negros, las dos grandes calamidades que eran origen de los vicios educativos y de la vergonzosa depravación de la sociedad cubana.”

⁴⁸⁰ Ibid.

1851, which would increase the number of lawyers in the capital where the only *Audiencia* remained.⁴⁸¹ At the same time, Captain General José Gutiérrez de la Concha initiated a fight against corruption on the island, which required disciplining and organizing lawyers and the judiciary, especially in Havana where there had been excessive litigation and continued complaints on irregularities in the administration of justice.⁴⁸² In the words of a resident of Havana, there were “more than five thousand people between lawyers, bachelors, pettifoggers, officials and false witnesses who cause the total ruin of the residents of the city.”⁴⁸³ Apparently, the previous efforts to control the practice of law in the capital had been ineffective.

Under those circumstances, on January 16th, 1852, the Chief Magistrate of the *Audiencia* of Havana, Ignacio Ramón Carbonell, advised the Major of Havana to initiate the procedures for the establishment of the *Colegio* in that city.⁴⁸⁴ The Regent of the *Audiencia* Pedro Pinazo supported this request on March 31st, 1852, and few days later the Captain General de la Concha called for the lawyers of Havana to install and join their *Colegio*.⁴⁸⁵ On April 18th, 156 lawyers of Havana met at the former Convent of San Felipe and constituted their *Colegio*. At that time, there were approximately 450 lawyers in the city, but only around a third of them participated of this foundational act. 357 lawyers,

⁴⁸¹ ANC Reales Ordenes y Cédulas, Legajo 160, Orden 68, Royal Order about the closing of the *Audiencia* of Puerto Príncipe.

⁴⁸² AGI ULTRAMAR 35, N.7, File concerning to the administration of justice in Cuba including some of the transformations to Cuban judicial system.

⁴⁸³ Alfonso W. Quiroz, *Implicit Costs of Empire: Bureaucratic Corruption in Nineteenth Century Cuba*, *Journal of Latin American Studies*, Vol. 35, No. 3 (Aug., 2003), 493 – 494.

⁴⁸⁴ ANC Fondo Gobierno General, Legajo 426, Orden 20549, File of the establishment of the *Colegio de Abogados* in Havana.

⁴⁸⁵ *Ibid.*

however, sent their credentials to become members of the *Colegio* within the next days.⁴⁸⁶ Unlike the way Ferdinand VII conceived of this *Colegio* in 1819, its statutes did not fix a maximum number of members authorizing it to enroll all those lawyers who were *vecinos* and had an open *estudio*.⁴⁸⁷ The number of legal professionals had grown too large to restrict members of the profession to a limited quota.

As can be imagined, lawyers from every political persuasion joined the *Colegio*. It included conservative, reformist liberals, annexationist, and also, radicals. Those political divisions manifested themselves in 1852 when the candidates running for Dean of the *Colegio* were the pro-Spanish Antonio del Monte Tejada and the annexationist Anacleto Bermudez Pérez del Corcho. Del Monte had fled Santo Domingo with his family in the aftermath of the Haitian Revolution, and settled in Havana in 1812, practicing law in that city thereafter.⁴⁸⁸ Also a historian, Del Monte had finished in 1852 his “History of Santo Domingo,” a defense of Spanish culture and Iberian colonialism in America, in response to the French and Haitian occupations of that portion of La Hispaniola during the first half of the nineteenth century. The first of the four volumes concludes with a proposal to build a lighthouse to honor Columbus, as the metropolis should still represent the light illuminating and guiding the American colonies.⁴⁸⁹ For his loyalty and intellectual services

⁴⁸⁶ ANC Gobierno Superior Civil, Legajo 426, Orden 20549.

⁴⁸⁷ *Estatutos para el regimen del Colegio de los Abogados de la Habana*. Imprenta de la Capitanía General, Habana, 1852. Article 1.

⁴⁸⁸ Franklin J. Franco, *Blacks, Mulattos, and the Dominican Nation*, Routledge, 2015.

⁴⁸⁹ Charles C. Mann, 1493: Uncovering the New World Columbus created (Knopf Doubleday Publishing Group, 2011), 8; and Robert Alexander González, *Designing Pan-American: U.S Architectural Visions for the Western Hemisphere* (University of Texas Press, 2011), 107.

to the Spanish Crown, Antonio del Monte would receive the Queen Isabella the Catholic Award in 1861.⁴⁹⁰

Anacleto Bermudez, the other candidate running for Dean of the *Colegio de Abogados*, was born in Havana and was a student of Varela at the *Colegio de San Carlos*. Bermudez graduated from the University of Havana in the 1820s and opened his *estudio* in 1831.⁴⁹¹ For two decades, Bermudez engaged in political conspiracies closely related to the *Junta Revolucionaria* that operated since New York. He also collaborated with the annexationist movement of Narciso López.⁴⁹² Bermudez hosted conspirators' meetings and taught lectures of political economy at his home, becoming a recognized leader of the anti-Spanish group in Havana.⁴⁹³ In addition, Bermudez provided legal advice to Afro-Cubans and poor clients, becoming particularly famous for the representation of Ignacio Corrales accused of the filicide of his daughter Jerónima Sofía.⁴⁹⁴ In 1847, Bermudez became illustrious among Cuban lawyers when he defeated in court the assessor of the Court of Vagrants and Pettifoggers, José Ildefonso Suárez, who was infamous for his abuses and arbitrariness. Bermudez's triumph over the Spanish official exemplified the ascending creole power over

⁴⁹⁰ AHN ULTRAMAR 4674 Exp. 3. Concession of the Award Elizabeth the Catholic to Antonio del Monte Tejada. Includes a biography along with a list of services and merits to justify the award, and describing his ancestry as well as familiar status after their establishment in Cuba as of 1861.

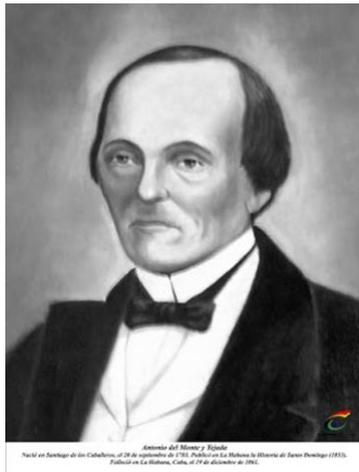
⁴⁹¹ Vidal Morales y Morales, *Iniciadores y primeros mártires de la revolución cubana* (Avisador Comercial, 1901), 344.

⁴⁹² *Ibid*, 345; and Santovenia, 397.

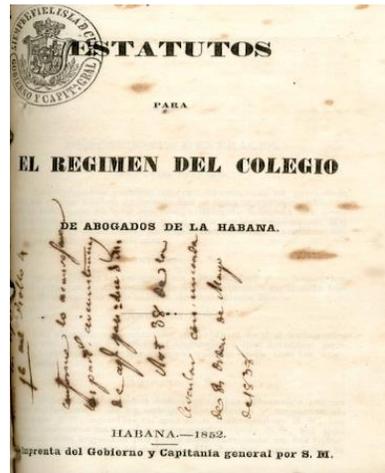
⁴⁹³ Some of the lawyers that attended Bermudez's meetings, conspiracies and lectures were José María Casals, Ramón de Palma y Romay, Fernando de Peralta, Carlos del Castillo. Porfirio Valiente, Francisco Muñoz del Monte, Joaquín Miranda Caballero, Manuel Hernández Perdomo, Antonio Franchi Alfaro, José Belén Valdés, Antonio Gassie, Gabriel María Morales López, Esteban Moris, Lorenzo and Marcelino de Allo. Francisco Valdés, and Joaquín María Pinto. See Morales, 345

⁴⁹⁴ Santovenia, 392 – 393, and 396.

the corrupt colonial establishment, placing him at the head of an important segment of the local legal community.⁴⁹⁵ In the elections for Dean, Bermudez defeated Del Monte with 83 votes over 79, a very tight election that showed not only the local political divisions but also the existence of considerable support for colonialism in Cuba, in spite of an ascending liberal movement. Upon election of the Dean, the government of Havana announced the formal constitution of the *Colegio* on April 22nd, 1852.⁴⁹⁶



Picture No. 11 Antonio del Monte Tejada



Picture No. 12 Cover of the Statutes of the Colegio de Abogados of Havana in 1852.

Colegiados also voted on the statutes of the *Colegio*. Following the Spanish standard statutes for *Colegios de Abogados* from 1838, this organization did not have a cap on its membership, but required lawyers to be *avencidados* and registered if there were a *Colegio* in town. In contrast to *habanero* lawyers in 1812, who demanded strict requirements to be

⁴⁹⁵ Santovenia, 395.

⁴⁹⁶ ANC, Fondo Gobierno Superior Civil, Legajo 426, Orden 20549. Those in attendance also elected the rest of the members of the Board as First Deputy Fernando Rodriguez Parral, Second Deputy Jose de la Luna, Third Deputy Ramon Palma, Fourth Deputy Domingo Giralt, Treasurer Jose Morales Lemus, and First Secretary Accountant Jose Maria Casals, most of them involved in cases of sedition. See ANC, Gobierno Superior Civil, Orden 11235, Legajo 327, File of Juan Bautista Díaz requesting authorization to practice as an attorney.

a lawyer following the statutes of the *Colegio* of Mexico, applicants only had to present their diploma with a written statement. Yet, candidates and members could be rejected based on legal and moral grounds, but there is no mention of social scrutiny, in terms, for instance, of family lineage or “*limpieza de sangre*.” The statutes, hence, departed from pre-liberal notions and affirmed the existence of modern liberal ideas among the legal professionals of the Cuban capital, even for the inclusion of new social groups that now many of them represented.⁴⁹⁷

The existence of the *Colegio* was short, though. A few months after its constitution, Dean Anacleto Bermudez became one of the leaders of an uprising in the Cuban town of Vuelta Abajo during the summer of 1852.⁴⁹⁸ This insurrection took place in the Western territory of Cuba, an area scarcely populated and also with a very limited number of lawyers, but relatively close to Havana. Gathered to initiate a military movement against Spain, members of the Cuban creole elite decided to rise in arms following the leadership of the liberal and annexationist Conde de Pozos Dulces.⁴⁹⁹ Involved in the plot, and later suffering persecution, Bermudez could not remain in office and died suddenly on September 1st, 1852.⁵⁰⁰ The conspiracy involved other lawyers such as Ramón de Palma

⁴⁹⁷ ANC Gobierno General, Legajo 426, Orden 20549, File of the constitution of the *Colegio de Abogados* in 1852, including a copy of the statutes of the *Colegio*.

⁴⁹⁸ Santovenia, 397. Bermúdez joined the leaders of the conspiracy of Vuelta Abajo, Juan González Álvarez, and the procurador Benigno González Álvarez.

⁴⁹⁹ For details of this conspiracy see César García del Pino, *Carlos García: Comandante General de Vuelta Abajo*, Editorial Ciencias Sociales, Habana, 1990; and *Historia Documentada de los Movimientos Revolucionarios por la Independencia de Cuba: de 1852 a 1867*, Vol. 1, Imprenta El Siglo XX, A. Muñiz y Hermano, 1939.

⁵⁰⁰ There are at least two explanations for his sudden death. One is that he died because of a gastric ulcer apparently aggravated by stress. For this theory, see Santovenia 398. Other sustains that he died from a cerebral collapse, also associated with stress. This option is mentioned in *Diccionario enciclopédico hispano-americano de literatura, ciencias y artes: Edición profusamente ilustrada con miles de pequeños grabados intercalados en el texto y tirados aparte, que reproducen las diferentes especies de los reinos animal, vegetal*

Romay, José Morales Lemus, and several more that were also members of the *Colegio*. In immediate response, Captain General Cañedo proclaimed Antonio del Monte y Tejada Interim Dean and even initiated the proceedings to dissolve the *Colegio*.⁵⁰¹ These events suggested that the Spanish government believed that such an organization in the capital, rather than preserving the integrity and ethic of the legal profession, would become a dangerous center of gathering and conspiring against the Crown. Cañedo finally closed the *Colegio* by the end of 1852 and, in sum, the *Colegio* of Havana barely lasted eight months.



Map. No. 4. Vuelta Abajo in Western Cuba.

The other institution for lawyers in Havana, the *Sociedad de Socorro Mutuo de Abogados* also closed in 1852. After three years of operation, the *Sociedad* only had five meetings with very low attendance. Its membership was also quite limited. By the summer of 1852, just 45 lawyers had joined the *Sociedad*. Furthermore, it was practically bankrupt. Under those circumstances, the members decided to dissolve it on August 4th, 1852, in a meeting that only 10 lawyers attended.⁵⁰² The organizational efforts of lawyers in Havana

y mineral: los instrumentos y aparatos aplicados recientemente á las ciencias, agricultura, artes é industrias; planos de ciudades; mapas geográficos; monedas y medallas de todos los tiempos, etc., Volume 3, (Montaner y Simón Editorial, Barcelona, 1888), 524.

⁵⁰¹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1852), 148.

⁵⁰² ANC Gobierno Superior Civil, Orden 11231, Legajo 327. The assistant lawyers were Deputy Manuel González del Valle, Treasurer Agustín Saavedra, and members: Fernando Rodríguez Parra, Joaquín C.

ended up in failure. The *Guía de Forasteros* mentioned for the last time Antonio del Monte y Tejada as Dean in 1853, but he did not really have any organization to preside over. His title returned to being just a mark of seniority.⁵⁰³

As professional organizations of lawyers in Havana disappeared after 1852, conservative forces and moderated liberalism prevailed temporarily in the capital city. Most of conservatives were *peninsulares* opposed the political participation and associations attempted by creoles, and sometimes interfering with the economic reform of the colony, in particular concerning the dominant labor regime. Some conservative leaders in Cuba, such as Julián de Zulueta y Amondo, had made a fortune from the slave trade and wanted to preserve this economic system, in contrast to abolitionist liberal movements.⁵⁰⁴ Apart from efforts to preserve their economic interests, conservatives were also mindful of the need to shape public opinion in general. To propagate their ideology in favor of Spain and its control over Cuba, conservatives had their own newspaper *La Prensa* managed by the Spanish journalist working in Havana, Gil Gelpi y Ferro.⁵⁰⁵ As conservatives strengthened, liberals reformulated their methods to pursue reforms in a more effective way. As part of their new efforts, they seem to have entered into a truce with the Spanish government. It would last until the 1860s.

Lactres Guinarte, Francisco de Viado y Rives, Ramón Just, Santiago Morales, José Joaquín Tovar, Manuel María Correa y Mariano Hernández Hevia.

⁵⁰³ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1853), 131.

⁵⁰⁴ Inés Roldán de Montaud, *La restauración en Cuba: el fracaso de un proceso reformista* (Consejo Superior de Investigaciones Científicas, Madrid, 2000), 3. FN 5. This footnote explains the relation between Zulueta and the slave trade in Cuba between 1832, when he established in Havana, and his death, in 1878.

⁵⁰⁵ *Ibid*, 2. The author refers to J. Llaverías, *Contribución a la historia de la prensa periódica*, Boletín del Archivo Nacional, Vol. XXVIII, nums. 1-6, 1929, pp. 13. It covers the origins of the newspaper *La Prensa*, until its fusion in 1870 with *La Voz de Cuba*.

Liberal Lawyers and the Last Peaceful Attempts to Reform Colonial Cuba

After the brief uprising of 1852, many lawyers faced prosecution on charges of *infidencia* and conspiracy. Most of them received sanctions of prison and were prohibited to practice as attorneys, at least temporarily. Ramón de Palma Romay was sent to jail in El Morro in Havana, while Juan Miranda Caballero, Manuel Hernández Perdomo, Antonio Gassie, and Francisco Valdés served 8 to 10 years of prison in Ceuta. Joaquín María Pinto, on the other hand, was sent into exile to Cáceres.⁵⁰⁶ All of them were young lawyers graduated from the School of Law of the University of Havana between 1843 and 1844 belonging to the same generation and having received a similar education.⁵⁰⁷ The only exception to this characteristic was Gassie, who received his Doctorate degree in Law during the 1830s.⁵⁰⁸ The prosecution of creoles involved in anti-Spanish plots, hence, temporarily suffocated the most radical manifestations of liberalism on the island; but being a generational movement it was foreseeable that it would eventually resurface.

During the 1850s, Spain continued a policy toward the island that increased the contradictions between colony and metropolis. Spain increased taxes on the island, its most productive colonial possession at that time, to cover their annual expenditures calculated at approximately eighty-eight million pesos. As a result, the inhabitants of Cuba had to pay more than thirty-four taxes and contributions to the Spanish *Hacienda*.⁵⁰⁹ As part of this

⁵⁰⁶ AHN ULTRAMAR 1686, Exp. 2. This file contains petitions of pardons of convicted for political crimes in Ceuta and Cádiz including Francisco Valdés, Juan Miranda Caballero and Antonio Gassie, among others; and Morales, 349 – 350.

⁵⁰⁷ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Havana, 1854 - 1853.

⁵⁰⁸ AGI ULTRAMAR 45, Exp. 8. This file contains the petition of Antonio Gassie to graduate from his Doctorate in Law in Havana in 1929.

⁵⁰⁹ Carreras, Julio Angel, *Céspedes* (Editora Política, Havana, 2003), 30. Some of these taxes included four pesos to the Cuban ships that sailed toward Spain or other ports. During its stay in Spanish harbors, the same

tax reform, the Spanish Monarchy decided to increase the taxes for the lawyers on the island. Starting on October of 1856, lawyers should pay an additional 2% of their income as part of the tax on industry and commerce, on top of the tax of 4% that lawyers already paid. By October 28th, 1856, the colonial government had enforced the tax and appointed the collectors José María Cisneros and Antonio de Cañas on November 16th and November 18th, 1856, respectively.⁵¹⁰ The effects of this particular taxation on lawyers are unknown, but having to start paying higher rates for their professional activity definitively might have caused discontent among them. In addition, the tax reform as a whole increased the economic burden on the colony to support Spain, while creating obstacles for the development of trade and open markets.

As Spain maintained its colonial policy for the island, some lawyers continued being instrumentals in the dissemination of liberal ideas. On April 4th, 1856, the Crown authorized the circulation of the *Revista de Jurisprudencia y Administración* in Cuba.⁵¹¹ Its promoter and chief editor was Nicolás Azcárate Escobedo, a creole lawyer born in Havana in 1828 who graduated on July 17th, 1854, from the Universidad Central in Madrid, and opened his *estudio* in Havana in 1855.⁵¹² Azcárate became a prominent attorney in

ship should pay 10 *reales* every day for every 100 tons of its measurement. Each *arroba* of coffee and each box of sugar in the port also resulted aggravated by a 2-½ reales tax, plus a one percent amount collected on top of the rights of customs. Spain also taxed the beeswax sent to the peninsula requiring the trader to pay six *reales* per *arroba*. The importation of gold and silver was also taxed with a two percent increased over its original price, the woods with a five percent, and the flour one peso for every barrel. The largest tax was imposed to slave traders who had to pay 4 ½ percent of the amount of money they were taking to the exterior to buy slaves in other countries, mostly the United States.

⁵¹⁰ ANC INTENDENCIA, Orden 83, Legajo 928, File for the implementation of the tax of 2% on lawyers.

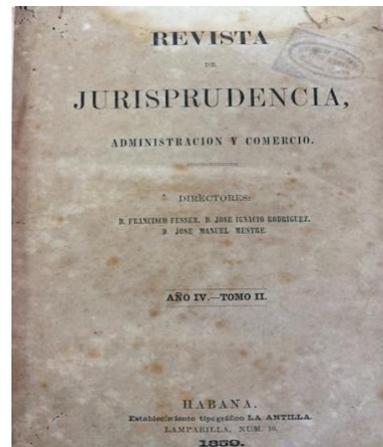
⁵¹¹ AHN ULTRAMAR 4646, Exp. 15. File containing the request and other documents related to the approbation of the *Revista de Jurisprudencia* in Cuba in 1856.

⁵¹² AHN UNIVERSIDADES, 3638, Exp.8 Academic file of Nicolás Manuel de Azcárate Escobedo; and ANC Register of the *Colegio de Abogados*, Havana, 1879 – 1900.

Havana pursuing an agenda that aimed to modernize the island while preserving the dependency on Spain. Under his advice, the issues of the *Revista de Jurisprudencia y Administración* included comments on recently enacted legislation, advertisements of oppositions for vacant Chairs in the University of Havana, and articles debating a large variety of legal topics such as statute of limitations, bills of exchange, and restitution *in integrum*.⁵¹³ Besides these legal technicalities, the *Revista* dedicated a large portion of its editions to contemporary themes that favored the dissemination of liberalism.



Picture No. 13 Nicolás Azcárate Escobedo.



Picture No. 14 Cover of an issue of the *Revista de Jurisprudencia* in 1859.

Since its first issue, the *Revista de Jurisprudencia, Administración y Comercio* contained a revised study of Roman Law and its new role in the modern legal systems under the views of the German Historical School of Law.⁵¹⁴ It also covered current controversial legal processes such as the criminal cause against D. Antonio Abad for assaulting the archbishop of Santiago de Cuba, D. Antonio Claret, in Holguín, a case that

⁵¹³ *Revista de Jurisprudencia y Administración de Cuba*, Tomo II, Vol. 2, 1856; Tomo I, Vol. 3, 1856; Tomo II, Vol. 3, 1856; Tomo I, Vol. 2, 1856; Tomo III, Vol. 1, 1856; Tomo III, Vol. 2, 1856.

⁵¹⁴ *Revista de Jurisprudencia y Administración de Cuba* (Tomo I, Vol. 1, 1856), 14.

questioned the authority and integrity of the Church on the island.⁵¹⁵ Regarding economics, the liberal ideology manifested itself with the publication of articles rejecting slavery and promoting wage labor. The largest of these articles required various issues for its entire publication, and it discussed a project for immigration of African apprentices to replace slaves in the sugar cane harvest. This article concluded that the replacement of slaves by African apprentices would be inconvenient for multiple reasons, but ultimately it rejected slavery as a manifestation of backwardness and considered it an economic burden for slave-owners.⁵¹⁶

The *Revista* also questioned practices socially accepted during the colonial period. The magazine, for example, published a critical study of the *duelos* that revised old notions of honor and justice in a modern society.⁵¹⁷ During the nineteenth century, there were two hundred and two duels in Cuba leaving thirteen deaths and one hundred and fifty two wounded.⁵¹⁸ Many creoles, including lawyers, participated of this practice either as contenders or, at least, as witnesses. The article called for a stop to this practice, considering duels an element from the past, while defending the liberal principle of respect of the law and the use of more civilized means to resolve moral offenses.⁵¹⁹ The magazine was published and circulated until 1868.

⁵¹⁵ *Revista de Jurisprudencia y Administración de Cuba*, Tomo II, Vol. 1, 1856.

⁵¹⁶ *Revista de Jurisprudencia y Administración de Cuba*, Tomo II, Vol. 1, 1856; Tomo I, Vol. 2, 1856; Tomo II, Vol. 2, 1856.

⁵¹⁷ *Revista de Jurisprudencia y Administración de Cuba*, Tomo I, Vol. 1, 1856.

⁵¹⁸ Agustín Cervantes, *Los duelos en Cuba* (Imprenta la Moderna, Habana, 1894), 120.

⁵¹⁹ *Revista de Jurisprudencia y Administración de Cuba*, Tomo I, Vol. 1, 1856.

In contrast to previous responses to political unrest that involved lawyers, Spanish colonial authorities did not issue any specific order to reduce their number on the island. Yet, the Spanish government of Ramón María Narváez requested of local authorities a census of lawyers in 1857, with the intention of verifying their number and whether they were sufficient. A total of 25 localities replied to this request, submitting a total list of 861 lawyers divided as follows: 27 in Guanabacoa, 42 in Matanzas, 36 in Puerto Príncipe, 23 in Sancti Spiritus, 17 in Trinidad, 17 in Cienfuegos, and 526 in Havana.⁵²⁰ The 1857 Census proved lack of communication between local authorities when many localities did not reply, particularly none from the entire Eastern region, a possible manifestation of the institutional crisis on the island. The Census also showed that Royal plans to reduce the number of lawyers had been mostly ineffective. On the contrary, there was an increase in the size of the legal profession through the 1850s. From 802 lawyers in 1853, the number jumped to 880 in 1859. During this period, even legal training institutions increased with the opening of the *Academia de Legislación y Jurisprudencia* of Santiago de Cuba in 1858. This institution broke the monopoly over the teaching of law that the University of Havana had held after the secularization in 1842, and affirmed that Eastern Cuba was paving its own path on certain issues with respect to Havana.⁵²¹

Other periodical publication with liberal ideology that circulated in Cuba during this period was *El Siglo*. Its owners were Miguel Aldama, a wealthy Cuban opposed to slavery, and José Morales Lemus, a famous lawyer practicing in Havana, and member of

⁵²⁰ ANC Gobierno General, Orden 15326, Legajo 316, File about the numer of lawyers working in Cuba.

⁵²¹ AHN ULTRAMAR 39, Exp. 6. This file contains documents related to the formation of the Academy of Jurisprudence in Santiago de Cuba, including letters from the Capitan General of Cuba to the *Ministerio de Estado y Fomento* regarding this issue and the Royal Order that grants this request of the Colegio de Abogados of this city.

the Board of Directors of the Havana *Colegio de Abogados* during its short existence. The newspaper had three directors and one of them, Francisco Frías Conde de Pozos Dulces, also had received legal education and was popular among reformist and annexationist forces in the city. *El Siglo* promoted liberal ideas such as the abolition of slavery, the establishment of an autonomous government in Cuba, progressive fiscal reform, and the implementation of a free market.⁵²² This newspaper represented a moderate opposition to the Spanish government on the island, since it defended the modernization of Cuba through the implementation of a liberal agenda while maintaining its subordination to Spain. *El Siglo* circulated between 1862 and 1868, except for some periods of censorship and suspension by local authorities.⁵²³

As liberal ideas spread through Cuba, the control over legal training was reinforced. In 1863, Spain approved a new plan of studies for the School of Law at the University of Havana.⁵²⁴ In this new program, the chairs reorganized and faculty members were reassigned.⁵²⁵ The polemicist Diego José de la Torre continued as Dean of the School of Law, but this time received the Chair of the second course of Roman Law, a less controversial course than his former Public International Law.⁵²⁶ This Chair, now mixed

⁵²² AHN ULTRAMAR 4677, Exp. 55, Compilation of documents, including Royal Order dated July 21st, 1862 granting a request made by José Quintín Suzarte to the Ministerio de Ultramar and the Capitan General to publish a newspaper in Havana named "El Siglo".

⁵²³ For information regarding this newspaper see Cepero Bonilla, Raúl. "*El Siglo*" (1862-1868). *Un periódico en lucha contra la censura*, Editorial Lex, La Habana, Cuba, 1957.

⁵²⁴ Catálogo General de la Universidad de La Habana y Memoria, *Universidad de la Habana, Memoria Anuario correspondiente al curso académico 1903-1904* (M. Ruiz y Co. Imprenta y Papelería Obispo 18 y 20, Habana, 1905), 14.

⁵²⁵ Anuario Universitario. Universidad de la Habana. Año 1974, 16. Also see *Guía de Forasteros de la siempre fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1873), 201.

⁵²⁶ *Guías de Forasteros de Cuba*, 1863 – 1866.

with Philosophy of the Law and Comparative Law, was assigned to a professor of Philosophy, the lawyer José Manuel Mestre Domínguez.⁵²⁷ Public and Administrative Law, on the other hand, remained in the hands of José Domingo Guerrero, whose experience and proved loyalty to Spain might prevent political dissent in that field. Another case of proved loyalty was the *peninsular* Francisco Campos López, who was Vice President of the University. In 1863, Campos' Chair of *Derecho Patrio* became History and Elements of Spanish Law, a class that trained young creoles on the Iberian legal tradition preserving the political and cultural nexus between the island and the Peninsula through the legal system.⁵²⁸

Another novel reform of 1863 was the incorporation of the Chair of Natural Law. Antonio Prudencio López taught this class, along with the first course of Roman Law, and Introduction to the Law.⁵²⁹ Cuba was a pioneer in the establishment of this Chair, a science that most universities taught integrated with Philosophy of the Law in Latin America and Europe. The teaching of this class during the first half of the nineteenth century incorporated the new ideas of legal *iusnaturalism*, considered by many the essence of the law during this time.⁵³⁰ Liberal jurists in Chile such as Andrés Bello, José Victoriano Larratria, and Ramón Briseño promoted its study during the same period as a renovation

⁵²⁷ AHN ULTRAMAR 30, Exp. 10, Appointment of José Manuel Mestre to the Chair of Philosophy in the School of Arts in 1855; and *Guías de Forasteros de Cuba*, 1863 – 1866.

⁵²⁸ AHN ULTRAMAR 264, Exp. 14. Personal file of Francisco Campos López including relation of merits and his services to the Spanish Crown as colonial official and awards. Campos was “Caballero de la Gran Cruz de la Real Orden Americana de Isabel la Católica, Comendador, Magistrado Honorario de la Audiencia de Granada, Auditor de Marina, Vocal Secretario de dicha Asamblea Provincial.”

⁵²⁹ *Guías de Forasteros de Cuba*, 1863 – 1866.

⁵³⁰ Jorge Correa Ballester, *Ciencia Jurídica y Enseñanza: la Parte General de los Manuales de Derecho Civil en la Época Liberal (1823 – 1923)* in Enrique González and Leticia Perez Puente (editors), *Colegios y Universidades: Del Antiguo Régimen al Liberalismo*, Vol. 2 (UNAM, 2001), 208 – 209.

of the legal and political systems, as well as to the recognition of individual rights, which led to the writing of their own “Natural Law or Philosophy of the Law,” in 1870.⁵³¹ In Spain, however, books of Natural Law by Enlightened scholars from the eighteenth century, such as Heinecio Gottlieb’s “Elements of Natural Law and Gents” and Jean Jacques Burlamaqui’s “Elements of Natural Law” were popular at this time.⁵³² It is likely, then, that Antonio Prudencio López based his teachings on these works, rather than the modern input of his Chilean colleagues.

The new plan of study reinforced the courses of Canon Law. The new program incorporated three canonist courses: History of the Church and Codicils, Canon Law, and Discipline of the Church. The last two Chairs separated in 1865, when professor Rafael Lima Renté became Librarian of the University, and Bernardo Calero finally assumed the teaching of Ecclesiastical Discipline. Lima had been Chief Secretary of the Administration and Treasury of the island since 1860, being a proved loyalist and Spanish official, now in charge of the Library and the teachings of Canon Law at the University.⁵³³ This class, History of the Church, on the other hand, merged with Political Economy, and the former Chair José Ramírez Ovando became the professor of both courses.⁵³⁴ Similarly, Commercial Law split from Political Economy, joined with Criminal Law, and the former

⁵³¹ Aníbal Bascañán Valdés, *Introducción al Estudio de las Ciencias Jurídicas* (Editorial Jurídica de Chile, 1953), 47 – 50.

⁵³² Dionisio Hidalgo, *Diccionario General de Bibliografía Española*, Vol.3 (Editorial Las Escuelas Pías, 1868), 47.

⁵³³ AHN ULTRAMAR 35, Exp. 46. File with the documents of the appointment of Felipe Lima as Secretary of Chief of the *Intendencia General del Ejército y Hacienda* of Cuba in 1860.

⁵³⁴ AHN ULTRAMAR 61, Exp. 8. Personal file of Ramírez Ovando that contains his relation of merits.

Chair José María Céspedes taught both courses for several years.⁵³⁵ The consolidation of unrelated Chairs, a mostly loyalist faculty, and increase of Canon Law in the reform of 1863 proved the official intention to train lawyers on topics that would not trigger their revolutionary ideas, while including new courses consistent with the transformations in the nineteenth century legal academy.

While the control over the legal training increased, the Spanish government, by contrast, liberalized the practice of law in 1863 from the *Colegios de Abogados*. Since the enactment of the Royal Decree of June 6th, 1844, lawyers had had to be members of a *Colegio* to practice. Many opposed this idea, as defenders of the profession's freedom. One of them, Rafael Monares Cerbián, became Secretary of Justice of Spain in 1863. In that capacity, Monares promoted the repeal of the Royal Order dated August 13th, 1858, which required lawyers to be *avencidados*, where there was a *Colegio*. This new Decree was finally approved on March 31st, 1863, providing that the profession of lawyer was free across the entire Spanish Monarchy.⁵³⁶ Although the law stated that it did not oppose the existence of *Colegios de Abogados*, this regulation weakened these institutions across Spanish territories while facilitating the increase in their number.⁵³⁷

During the 1860s, Spain not only modified its policy toward the legal profession, it also tried to prevent political unrest in Cuba with a more flexible government. Captain

⁵³⁵ AHN ULTRAMAR 264, Exp. 16. Professional file of José María Céspedes Orellano.

⁵³⁶ *Colección Legislativa de España*, Edición oficial, Primer Semestre de 1863, T. LXXXIX (Imprenta del Ministerio de Gracia y Justicia, Madrid, 1863), 253. "La profesión de abogado es libre en toda la Monarquía."

⁵³⁷ *Ibid.* "cree también, sin embargo, que en nada se opone a este libre ejercicio la institución de los Colegios, cuyo objeto es mantener el lustre y la disciplina de tan distinguida clase, sirviendo al propio tiempo de escudo y amparo a esa libertad, que es condición indispensable para el buen desempeño de los deberes que le están encomendados."

Generals Francisco Serrano Domínguez, between 1859 and 1862, and Domingo Dulce Garay, from 1862 to 1866 intended to appease liberal creoles.⁵³⁸ Both Captain Generals followed an amicable agenda with the inhabitants of the island and even granted honors to local leaders, including liberals, such as the lawyers Silverio Jorrín, José Morales Lemus, and Nicolas Azcárate, among others.⁵³⁹ In reward for his loyalty, the former Dean of the *Colegio de Abogados* Antonio del Monte y Tejada received the Encomienda de Isabel la Católica in 1861.⁵⁴⁰ This policy, however, did not resolve the long-standing claims of Cuban liberals who continued awaiting a deep political reform from the metropolis.

In a last attempt to resolve the contradictions with Cuba, Spain created the *Junta de Información*. Cubans were eager to participate in the Cortes since 1836 when the Spanish government forbade attendance of elected representatives of the island, including the lawyer and priest Félix Varela Morales. This prohibition ratified the island's colonial status, highlighted the differences and increased the tensions between creoles and residents in the metropolis, or *peninsulares*. During the 1860s, however, Spanish liberals started promoting popular participation with inclusion of the provinces and overseas territories in the Cortes.⁵⁴¹ Consequently, Prime Minister Narváez authorized the creation of a *Junta de Información* in 1866, an elective advisory board or commission that would present to the

⁵³⁸ Roldan de Montaud, 1.

⁵³⁹ AHN ULTRAMAR 4678 Exp. 25, File of the concession of the Cruz de Carlos III to Nicolas Azcarate Escobedo in 1862; AHN ULTRAMAR 4695 Exp. 3, File of the concession of the Encomienda Carlos III to Silverio Jorrín in 1863; AHN ULTRAMAR 4692 Exp. 26, File of the concession of the Encomienda Isabel la Católica to José Morales Lemus in 1864.

⁵⁴⁰ AHN ULTRAMAR 4674 Exp. 3, File of the concession of the Encomienda Isabel la Católica to Antonio del Monte Tejada in 1861.

⁵⁴¹ About the history of Spain and its political unrest experienced during the nineteenth century by this country, see Álvarez Junco, José, *Mater Dolorosa: la idea de España en el siglo XIX*, Grupo Santillana de Ediciones, Madrid, Spain, 2001.

government in Madrid the multiple problems in Cuba and creole proposals to fix them.⁵⁴² This was a limited form of participation since members of the Junta were going to the Cortes to speak about Cuba and its problems alone, but still an opportunity to bring reforms to the island.

Notable inhabitants of Cuba that expected the implementation of economic, social and political transformations integrated the *Junta*. The members of this commission were divided into two groups: those elected by the people, and those appointed by local authorities among loyal members of colonial society.⁵⁴³ Followers of every political faction in Cuba such as radical liberals and former annexationists integrated the *Junta*. Spanish authorities, considering the broad political spectrum of the members of the commission, also promoted some conservative candidates. This strategy reduced the effectiveness of the negotiations when half of the *diputados* would not vote against current Spanish colonial methods and the others were divided based on their diverse political persuasions and interests. The political positions of the representatives were too heterogeneous, which made impossible for the participants to reach a consensus.⁵⁴⁴

Among the members of the *Junta* elected by popular vote, there were some Cuban lawyers. José Antonio Saco, one of the intellectuals who opposed both Spanish colonialism

⁵⁴² María Dolores Domingo Acebrón, *La Junta de Información en Madrid para las reformas en las Antillas, 1866*. Hispania Magazine, LXII/1, núm. 210 (2002), 141 – 166.

⁵⁴³ Ibid, 148. Manuel de Armas, José Luis Alfonso, José María Angulo y Heredia, José Antonio Saco, Manuel Ortega, José Antonio Echeverría, Calixto Bernal, Tomás Terry, Antonio Fernández Bramosio, Francisco Frías y Jacott Conde de Pozos Dulces, Juan Munné, Conde de Vallengano, José Morales Lemus, Nicolás Azcárate, Agustín Camejo and Antonio Rodríguez Ojea were elected. José Suárez Argudín, Pedro Sotolongo, Ramón Montalvo, Nicolás Martínez Valdivieso, Mamerto Pulido, Francisco Ochoa, José González Estefani, Miguel Antonio Herrera, Alejandro Oliva, Pedro de Sotolongo, and Francisco Cutanda, represented the interests of the colonial government.

⁵⁴⁴ Ibid, 161.

and annexation to the United States, was elected by the city of Santiago de Cuba. The town of Remedios elected José Morales Lemus, one of the owners of the newspaper *El Siglo*, former annexationist and Counselor of the Administration of the island.⁵⁴⁵ Nicolás Azcárate, owner of the *Revista de Legislación y Jurisprudencia* and a moderate liberal with considerable influence among the legal professionals of the island, was also elected.⁵⁴⁶ Another lawyer elected *diputado* was Antonio Rodríguez Ojea who practiced in the rural town of Guanajay and was well aware of the situation in the Cuban countryside and isolated areas.⁵⁴⁷

Among the members appointed by Spanish authorities there were conservative *peninsulares* who held public positions within the government of the island. One of them was Francisco Cutanda Jarante. He was a loyalist lawyer who had been appointed as supervisor of books and censor of printing in the city of Matanzas in 1840, and later requested an appointment as magistrate of the *Audiencia* of Puerto Príncipe in 1843.⁵⁴⁸

⁵⁴⁵ Vidal Morales y Morales y Carlos de la Torre y Huerta. *Nociones de historia de Cuba* ("La moderna poesía", La Habana, Cuba, 1904), 199; AHN ULTRAMAR 4692, Exp. 26; AHN, ULTRAMAR 4701, Expediente 62. Few years later, after the failure of the *Junta*, Morales Lemus started having more radical positions and became a leader of the separatists' movement in Havana. For that reason, Morales was deprived of his civil rights, sent into exile and the Spanish authorities in the island confiscated his properties. On this matter, see AHN ULTRAMAR 4347, Exp. 16. File containing documents issued by the *Consejo de Bienes Embargados* in Cuba regarding the suppression of his civil rights and the confiscation of properties owned by José Morales Lemus; AHN ULTRAMAR 4352, Exp. 41, Inquiry about the confiscation of properties to José Morales Lemus; AHN ULTRAMAR 4347, Exp. 15, File of the procedure to claim actions confiscated to José Morales Lemus.

⁵⁴⁶ AHN ULTRAMAR 4646, Exp. 15. File containing the request and other documents related to the approbation of the *Revista de Jurisprudencia* in Cuba in 1856.

⁵⁴⁷ AHN UNIVERSIDADES 4671, Exp. 12. Professional file of Antonio Rodriguez Ojea.

⁵⁴⁸ AHN ULTRAMAR 4624, Exp. 11. This file contains Cutanda's resignation letter to the position of censor of printings and books in the city of Matanzas. It does not seem to have been motivated by a change of his political views; but for personal and professional reasons. That would explain why in 1866 he is going to represent Spanish positions within the *Junta de Información*, still as a loyalist. AHN ULTRAMAR 4616, Exp. 17. Professional file of Francisco Cutanda containing documents which describes his merits and services to the Spanish regime.

Another conservative lawyer in the *Junta* was José Nicolás Martínez Valdivieso who graduated in Spain and, thereafter, worked as an official of the Spanish government in Cuba.⁵⁴⁹

The debates of the *Junta* mostly revolved around the abolition of slavery, tax reform and the establishment of an autonomic government for Cuba.⁵⁵⁰ Records of the *Junta* of 1866 include some of the legal arguments used by lawyers to reject slavery. They used basic moral and legal principles such as the criticisms to serfdom made in *Las Siete Partidas*: “Serfdom is the most evil and despised thing that could exist among men.”⁵⁵¹ Cuban lawyers also presented a “Plan of gradual emancipation” that included all the aspects to be regulated regarding abolition. The first point was the gradual suppression of the “African” race by forbidding the entrance of non-whites to the island. Second, slave-owners should be compensated. Finally, Cuban reformists requested the establishment of a bank in Havana to support the financial transactions derived from abolition, as well as to foment agriculture and trade.⁵⁵² The proposal confirmed creole aspirations to modernize Cuba by replacing slavery with a capitalist model of production, while keeping racial barriers and exclusions.

Lawyers had requested the abolition of slavery since the beginning of the early nineteenth century, especially during the liberal period between 1810 and 1814. Mexican

⁵⁴⁹ AHN, UNIVERSIDADES 4420, Exp. 12. Professional file of Martínez Valdivieso; and Domingo Acebrón, *La Junta de Información en Madrid para las reformas en las Antillas, 1866*, 141 – 166.

⁵⁵⁰ Domingo Acebrón, 141 – 166.

⁵⁵¹ “Servidumbre es la más vil y la más despreciada cosa que entre los hombres pueda ser,” See Gregorio López Tovar, *Códigos Españoles concordados y anotados: Las Siete Partidas*, T. V (Imprenta de la Publicidad, Madrid, 1849), 147.

⁵⁵² Domingo Acebrón, 159.

representative to the Spanish Cortes, José Giraudi Alcocér, requested to the metropolis the suppression of the slave trade and slavery on March 26th, 1811. Asturias' deputy Agustín Argüelles repeated the request on April 2nd of the same year.⁵⁵³ Those claims sided with the international opposition to slavery and the Spanish legislature passed a motion prohibiting the slave trade in 1811. This law was not actually enforced and did not suppress the slave system in the colonies. Because of the inefficacy of the law of 1811, the debates in the Spanish Cortes continued and Deputy Isidoro Antillón was still leading the arguments against abolition on August 13th, 1813.⁵⁵⁴

Lawyers in Cuba, in contrast, had owned slaves as part of their assets, and some of them were even known for their mistreatments and abuses. Antonio Machado, who had his law firm in Havana between 1827 and 1867, became famous when he whipped to death one of his slaves for suspicion of stealing some jewelry. Because of his connections with local authorities, however, his crime remained unpunished.⁵⁵⁵ As Machado, many lawyers were slave owners and relied on slavery, especially as the basis of the plantation system. Other lawyers, meanwhile, were abolitionist, although reluctant to social integration and equality. That was the case of the liberal Nicolás Azcárate Escobedo, the founder of the *Revista de Jurisprudencia*, who during the late 1860s said: “we are confident that Cuba

⁵⁵³ De Solano, Francisco y Agustín Guimera Ravina, *Esclavitud y derechos humanos: la lucha por la liberación del negro en el siglo XIX* (Slavery and human rights: the fights for the emancipation of the blacks in the nineteenth century), (Editorial CISC Press, 1990), 65.

⁵⁵⁴ Henry Hobhouse, *Seeds of Change: Six plants that transformed mankind* (Counterpoint Press, New York, 2005), 111.

⁵⁵⁵ *Guías de Forasteros de la Siempre Fiel Isla de Cuba*, Havana, editions of 1846, 1847, 1862, 1863, 1865, 1866, and 1867. Hugh Thomas, *Cuba: the pursuit of freedom*, (Primera Edición Vintage Español, 2013), 152; and Richard Robert Madden, *Isla de Cuba: sus recuerdos, progresos y perspectivas* (*Island of Cuba: its memories, progresses and perspectives*), Consejo Nacional de Cultura, Havana, 1964.

could overcome [slavery] while remaining Spanish and civilized rather than becoming African and barbarian.”⁵⁵⁶

After various decades of domestic and international pressure, led by Great Britain, Spain enacted the Criminal Law for the Abolition and Repression of the Slave Trade in 1845. This law only included sanctions for slave’s traders with limited effect and applicability, which pushed Spanish intellectuals and politicians to continued arguing against slavery during the following years. The Civil War in the United States caused the abolition of slavery in that country, increasing the foreign rejection of the slave system, and also within the Spanish Empire. In 1863, for example, the Free Society of Economic Politics and the Academy of Legislation and Jurisprudence of Madrid discussed the necessity to abolish slavery.⁵⁵⁷ Then, the issue of slavery was not exclusive to the members of the board, but a general problem in Spain and also in the international field.

The diversity of opinions among the members of the *Junta* made it impossible to reach an agreement on any of the topics under debate. Contradictions between liberal and conservative creoles blocked what seemed to be the last peaceful attempt to transform Cuba. Deputies returned to the island with no response. Moreover, several of them must have felt the humiliation of seeing their demands unfulfilled. The failure of the *Junta de Información* in 1866 frustrated the aspirations of Cuban liberals. The following two years would witness the gestation of Cuba’s first independentist revolution. It was clear that the events that took place between the decades of 1840 and 1860 radicalized Cuban liberals and deepened their opposition to Spanish colonialism.

⁵⁵⁶ Domingo Acebrón, *La Junta de Información en Madrid para las reformas en las Antillas*, 160.

⁵⁵⁷ De Solano, 69.

Conclusion

After the establishment of the constitutional monarchy in Madrid, liberals strengthened both on the Iberian Peninsula and in Cuba. The Spanish policy toward lawyers implemented novel mechanisms of control such as the creation of the Court of Vagrants and Pettifoggers, and the enactment of general statutes for the *Colegio de Abogados*. These statutes did not set a cap of membership, and just required the inscription in the *Colegio* to practice. Thus, the number of lawyers significantly increased, incorporating many new families to the legal profession, which created new social networks in the colonial society. At the same time, Spain enforced more liberal reforms that involved the legal profession, such as the secularization of the legal training at the University of Havana. As they grew in numbers, lawyers increasingly became the leading voice requesting economic and political transformations on the island. As a new alternative, many Cubans started supporting the annexation of the island to the United States, and several lawyers became active promoters of this idea. The political dissent and military actions organized by lawyers in the early 1850s caused the closing of the recently opened *Colegio de Abogados* in Havana. Yet, Spain tried to preserve its peaceful control over the island, calling for an Advisory Board to attend Cortes in Madrid to report about Cuban issues in 1866. Mostly formed by lawyers, the Board failed when Spain was unable to comply with Creole's request; but it created the context for the development of a more radical liberal ideology among the inhabitants of Cuba, again led by lawyers, that would push the island into a new period of fighting for the implementation of the liberal agenda.

IV. **CHAPTER 3. Pursuing the Liberal Agenda: Cuban Lawyers During the Ten Years War (1868 – 1878)**

In 2012, the collective effort of various historians specialized on issues across Latin America put out a compilation of articles titled “Jurists of the Independence.”⁵⁵⁸ This work included a piece about Cuba, a short essay written by the Cuban scholar Beatriz Bernal. In this work, Bernal listed the participation of Cuban lawyers in independentist projects on the island focusing on the known main leaders Ignacio Agramonte and Carlos Manuel de Céspedes, while incorporating into the narrative lists of other legal professionals who were also involved in the separatist movements. Although a pioneer on the particular topic of the role of lawyers in the Cuban independence, this article does not unveil the true essential role that provincial lawyers had in the mobilization of the independentist uprising, the organization of the revolutionary government, and the effects that the war had on the legal training and legal services across the island. Neither does it consider either how political or legal issues in Spain impacted on the island during the mid-nineteenth century.

The second half of the 1860s was a complex period for Spain and its colonies. A crash of the Spanish financial system, along with consecutive years of poor harvest, caused food scarcity and a major increase in the price of bread. At the same time, thousands of urban workers lost their jobs after the closing of factories, and labor movements surfaced in the main Spanish cities. This situation led to social and political unrest that ended with the signature of the Pact of Ostende in October of 1866 whereby Spain’s Progressive Party and Democratic Party agreed to work jointly against the regime presided over by Queen

⁵⁵⁸ José María Pérez Collados and Samuel Rodríguez Barbosa, editors, *Juristas de la Independencia*, Marcial Pons, Madrid, 2012.

Isabel II. Spanish conservative forces, headed by the military leader Francisco Serrano y Domínguez, adhered to this Pact in March of 1868, creating a coalition against Isabel's moderately liberal government. Upon the death of Prime Minister Ramón María Narváez in April of 1868, a series of uprisings occurred in South and Central Spain. This was the beginning of "the Glorious Revolution," a process that resulted in the overthrow of Isabel II and the establishment of a provisional government in September of 1868.

Echoes of the political unrest in Spain reached its overseas territories. Liberal Cubans, frustrated after the failure of the *Junta de Información* in 1866, moved from peaceful resistance during the 1860s to a more radical stance. They realized that the only way to implement substantial reforms in Cuba would be through the independence of Cuba. Consequently, some liberal Cubans, led by a number of lawyers, raised arms in 1868—namely, the Ten Years War, which caused a Spanish reaction to regain authority over the island. Mostly provincial creole lawyers organized the first war for Cuban independence and through laws, enforced the liberal ideology, while Spain enabled reforms to appease the island and increased its control over the legal training and practice.

The Preparation for the War: The Mobilization of Cuban Lawyers

The Spanish Empire was in crisis in 1868, a situation that became particularly difficult in Cuba where the conflicts between creoles and the peninsular government had simmered during the previous decades. Lawyers on the island, who had led the liberal movement and requested by multiple means the implementation of liberal reforms, mobilized after the lack of response by the Spanish Monarchy. The conspiracy began in 1867, in Cuba's Eastern portion where small and isolated groups rapidly interconnected with one another

creating an active network. This movement became especially strong in the area of Bayamo.

On August 2nd, 1867, the wealthy landowner and lawyer Francisco Vicente Aguilera created the *Junta Directiva del Círculo de Bayamo*, an organization to coordinate and prepare local actions for the independence of Cuba.⁵⁵⁹ He was born in Bayamo on June 23rd, 1821.⁵⁶⁰ As many members of the revolt in Western Cuba during the 1850s, Aguilera studied law at the University of Havana in the decade of 1840, and, although he focused on the administration of his estates, he also held offices at the city of Bayamo as part of his public commitment.⁵⁶¹ Aguilera was known for rejecting slavery and for his concerns over the poor conditions of the inhabitants in the area.⁵⁶² The creation of the *Junta* took place at the house of the lawyer Francisco Maceo Osorio, with the attendance of the leaders of each of the Eastern Cuban towns that were also plotting against Spain. They agreed on two major issues: not to pay more taxes or contributions, and to spread the idea of revolt through professional, social, and family networks.⁵⁶³

The local leaders who attended this meeting were Belisario Álvarez Céspedes from Holguín, Vicente García from Las Tunas, Donato Mármol from Jiguaní, Carlos Manuel de

⁵⁵⁹ Vidal Morales y Morales, *Hombres del 68: Rafael Morales y González* (Imprenta y Papelería de Rambla y Bouza, 1904), 66.

⁵⁶⁰ John Austin Stevens, and others, *Obituary of Francisco Vicente Aguilera*, at *The Magazine of American History with Notes and Queries*, Vol. 1 (A. S. Barnes, 1877), 271.

⁵⁶¹ AHN ULTRAMAR 4679, Exp. 2. The file contains request of Francisco Vicente Aguilera claiming the position of *alguacil mayor* in Bayamo, including testimony of his *limpieza de sangre*, between 1844 and 1846.

⁵⁶² José M. Hernández, *Cuba and the United States: Intervention and Militarism, 1868-1933*, (University of Texas Press, Dec 18, 2013), 195.

⁵⁶³ Morales y Morales, 67.

Céspedes from Manzanillo, and Manuel Ramón Fernández from Santiago de Cuba. Mármol and García were wealthy plantation owners dedicated to the administration of their estates, and Fernández was the Chairman of the Preparatory School in Santiago de Cuba.⁵⁶⁴ Álvarez and Céspedes were the only two caudillos that were also lawyers, established in Holguín and Manzanillo respectively. They were cousins, and both had studied at the Universidad Central in Madrid during the 1840s, where they probably fueled their liberal thinking. Upon their return to Cuba, each established himself in a different town, but still remained connected by the family network, as well as for being members of the same *Colegio de Abogados* that gathered lawyers from Holguín and Manzanillo with residence in Bayamo.⁵⁶⁵

Among the Eastern leaders of Cuba, the personality of Carlos Manuel de Céspedes shined since the beginning of the meeting. He was born in Bayamo in 1819, and studied law in Spain, from where he returned graduated in 1844. Céspedes opened his *estudio* in the city of Manzanillo, and incorporated to the *Colegio* of Bayamo in 1850.⁵⁶⁶ As a lawyer, he worked in various areas, including family, real estate and property management, and enjoyed connections with local plantation owners.⁵⁶⁷ Occasionally, Céspedes held

⁵⁶⁴ Portuondo Zúñiga, Olga y Rovira, Yoan, *El Colegio Seminario San Basilio Magno*, Editorial Oriente, Santiago de Cuba, 2000, 58.

⁵⁶⁵ AHN UNIVERSIDADES 3567, Exp. 2. Academic file of Belisario Álvarez Cespedes as student of Law at the Universidad Central in Madrid, between 1846 and 147; and *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Havana, 1846 – 1868.

⁵⁶⁶ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1850), 170.

⁵⁶⁷ For Céspedes' personal documents and writings, see Portuondo, Fernando and Hortensia Pichardo, eds., *Carlos Manuel de Céspedes: Escritos*, Volume I, Editorial de Ciencias Sociales, La Habana, Cuba, 1974. This is a compilation of Céspedes' most important documents. The authors included legal documents made by Céspedes in the practice of his profession as a lawyer in the area of Bayamo and Manzanillo, along with letters and communications with others members of Cuban separatist movement.

positions within the Board of the *Colegio* such as *Contador Secretario*.⁵⁶⁸ Céspedes started participating in social meetings where he seems to have realized that independence was the only solution for Cuba's problems, especially after the failure of the *Junta de Información* of 1866. This process radicalized his liberal thinking and made him the local leader of the conspiracy in the area of Manzanillo.

As a result of the initial meeting, each of the local leaders in Eastern Cuban called for a larger gathering of every person who opposed Spanish colonialism in the region. Many liberals replied to their call, and the first general meeting of the insurrection took place on August 14th, 1867, at the residence of Pedro Felipe "Perucho" Figueredo Cisneros in Bayamo with the attendance of approximately sixty people.⁵⁶⁹ At least fifteen lawyers from Bayamo and Manzanillo attended this reunion.⁵⁷⁰ The host of the meeting, Pedro Figueredo, was the Dean of the *Colegio de Abogados* in Bayamo since 1865.⁵⁷¹

Pedro Figueredo was born on February 18th, 1818, in Bayamo.⁵⁷² In 1834, his father sent him to study under the care of the liberal lawyer José de la Luz y Caballero, in his *Seminario* in Carraguao, near the city of Havana. Later on, he attended the Law School in Barcelona and, upon his graduation in 1844, he established himself in Bayamo. After his return, Figueredo met Carlos Manuel de Céspedes and they started a lasting friendship.

⁵⁶⁸ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1852), 188.

⁵⁶⁹ Morales y Morales, 68.

⁵⁷⁰ Among others, the lawyers that attended this meeting were Esteban Estrada Estrada, Lucas del Castillo Moreno, Luis Fernández de Castro, Francisco Vicente Aguilera, Pedro Figueredo Cisneros, José Joaquín Acosta Fonseca, Francisco Maceo Osorio, Jorge Milanes, Juan Izaguirre, and Joaquín Palma. See Morales y Morales, 68.

⁵⁷¹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, (Imprenta del Gobierno, Havana, 1868), 162.

⁵⁷² Chao, Raul Eduardo, *Baragua: Insurgents and exiles in Cuba and New York during the Ten Year War on independence (1868 – 1878)*, (Dupont Circle Editorial, 2009), 371 – 372.

Together, they opened the Philharmonic Society in Bayamo in 1851, a lyceum for the gathering of artists and intellectuals of the town that eventually would turn into a space for liberal thinking and revolutionary talks. Since the early 1850s, Figueredo engaged in activities against Spanish colonialism. In 1853, for example, he was accused of slashing a portrait of Queen Isabel II. To avoid deportation, Figueredo moved to Havana and continued working as a lawyer in representation of wealthy *Bayamesas* families in the capital. Once in Havana, however, Figueredo continued his political activities and in 1857, with José Quintín Suzarte and Domingo Guillermo de Arozarena, founded the newspaper *El Correo de la Tarde*, deeply critical of the Spanish management of the island.⁵⁷³ In 1858, Figueredo returned to Bayamo, where he continued his activities defying the colonial establishment.⁵⁷⁴ For example, he was put under house arrest as the result of a letter he wrote to the Captain General of the island complaining about the ineptitude of the city's Major, Gerónimo Suárez Ronte.⁵⁷⁵

In the meeting on August 14th, 1867 conspirators elected a revolutionary committee intended to push forward the rebellion forward. Three lawyers from Bayamo joined this committee: Francisco Vicente Aguilera, who became the leader of the conspiracy, Pedro Figueredo, and Francisco Maceo Osorio.⁵⁷⁶ The meeting confirmed that they should visit other cities and traced a strategy to mobilize the rest of the island. Figueredo was to

⁵⁷³ *Diccionario de la Literatura Cubana*, (Editorial Letras Cubanas, Havana, Cuba, 1908), 40.

⁵⁷⁴ Figueredo had great vocation and aptitude for the music, reason why he wrote Cuban national anthem in 1867. See Alejo Carpentier, *Music in Cuba* (University of Minnesota, Minnesota, 2001), 62.

⁵⁷⁵ José González Mármol, *Donato Mármol: Mayor General en la Revolución del Separatimso Cubano* (Editorial Arenas, 1993), 64.

⁵⁷⁶ Morales y Morales, 68.

mobilize Havana, Aguilera was in charge of Santiago de Cuba and Puerto Príncipe, Maceo Osorio would recruit forces in Holguín, and Luis Fernández de Castro, also a lawyer, would assume the duty of raising forces in Las Villas.⁵⁷⁷

Francisco Maceo Osorio was born in Bayamo on March 26th, 1828, and studied in Havana, Barcelona and Madrid.⁵⁷⁸ Upon his graduation, in 1859, Maceo Osorio returned to Bayamo to establish a law firm that stayed open until 1863, when he became Municipal Judge. Nevertheless, Maceo Osorio opposed Spanish colonialism in Cuba. In 1864, along with the Cuban poet José Joaquín Palma, he published *La Regeneración*, a magazine of poetry that included severe criticisms of the colonial authorities and their methods.⁵⁷⁹ Luis Fernández de Castro was also a member of the *Colegio de Bayamo*.⁵⁸⁰

Each of the members of the commission used his professional and personal networks to get support for their attempt to stage an armed rebellion against Spain. Once in Havana, Figueredo tried to benefit from the professional connections he had made in this city during the 1850s. He visited José Morales Lemus, who was the leader of the liberal groups in the capital and one of the owners of the newspaper *El Siglo*. Morales, however, rejected Figueredo's idea of an uprising on the grounds that Cuba was unprepared for such a war.⁵⁸¹ In contrast, as per Figueredo's request, the Supreme Masonic Council decided to support

⁵⁷⁷ Morales y Morales, 69.

⁵⁷⁸ AHN UNIVERSIDADES 4369, Exp. 18. Academic file of Francisco Maceo Osorio that shows his studies in the universities of Spain and Cuba.

⁵⁷⁹ José Joaquín Palma, *Poemas* (Tipografía Nacional, Tegucigalpa, 1882), xv.

⁵⁸⁰ Raul Eduardo Chao, *Baragua: Insurgents and exiles in Cuba and New York during the Ten Year War on independence (1868 – 1878)*, (Dupont Circle Editorial, 2009), 371 – 372.

⁵⁸¹ Morales y Morales, 70.

the cause and started raising funds. Similarly, in Santiago de Cuba, the *Colegio de Abogados* did not support the idea of an uprising, while the local lodges backed the initiative and started mobilizing their members through *Gran Logía de Colón*, *Gran Oriente Cubano*, and other lodges subordinated to them.⁵⁸² After Havana, Santiago was the second most important city of the island, and most local lawyers were also members of the colonial establishment, which was why their incorporation was probably as limited as those in Havana. On his way back to Bayamo, Figueredo learned that Fernández de Castro had not succeeded in the mobilization of Las Villas either, and decided to pay him a visit. Figueredo's lack of connections within the territory forced him to leave shortly after.⁵⁸³ The professional networking of lawyers did not provide at this time the support that initial leaders of the revolution expected.

After few months of preparation, the leaders of the conspiracy decided to meet again, now in San Miguel del Rompe, in Las Tunas. On August 3rd, 1868, they gathered to discuss whether the conditions for the uprising were ready. In this meeting, the local caudillos ratified the Cuban Revolutionary Board initiated by Aguilera, Figueredo and Maceo Osorio, and started debating the date of the uprising.⁵⁸⁴ Six, of the twelve attendants at this meeting, were lawyers, and they showed contrasting opinions regarding the best moment to rise in arms.⁵⁸⁵ While Carlos Manuel de Céspedes and his followers believed it should be as soon as possible, Belisario Álvarez tried to dissuade them from initiating a

⁵⁸² Morales y Morales, 72 – 73.

⁵⁸³ Ibid, 72.

⁵⁸⁴ Ibid, 74.

⁵⁸⁵ Ibid, 76. The lawyers were Francisco Vicente Aguilera, Belisario Álvarez, Francisco Maceo Osorio, Carlos Manuel de Céspedes, Pedro Figueredo, and Carlos Mola.

war without the support of Santiago de Cuba, Havana, Las Villas or Matanzas.⁵⁸⁶ In a tight vote, leaders could not decide whether to initiate the uprising or not, and local rebels continued preparing on their own for the moment to come.

After two months of waiting, and in peril of being betrayed and imprisoned, Carlos Manuel de Céspedes called for a new meeting of the leaders of the conspiracy. They met again, now in *El Ranchón de los Caledones*, an estate in Manzanillo, on October 3rd, 1868. Once again, Céspedes met opposition to his call to rise in arms. The main objections came from Francisco Vicente Aguilera, who mostly argued lack of funds to support the war.⁵⁸⁷ Radical liberals from Eastern Cuba, however, were not willing to wait any longer. After a final meeting on October 6th, and without summoning Francisco Vicente Aguilera and other leaders who wanted to postpone the uprising, the attendants decided to initiate the war on October 14th, 1868. They also elected Carlos Manuel de Céspedes as the Superior Military Leader of the movement. Someone, however, revealed the plans to the local authorities who promptly started searching for Céspedes to arrest him. This new situation triggered the plans and the caudillo of Manzanillo could not wait any longer to initiate the fight for Cuban independence.

Lawyers and the Uprising of the Ten Years War.

The uprising took place in the estate *La Demajagua*, property of the lawyer Carlos Manuel de Céspedes, on October 10th, 1868. That day, Céspedes gathered his slaves and

⁵⁸⁶ Morales y Morales, 77.

⁵⁸⁷ Ibid, 78.

freed them, while urging them to join the forces in the fight against Spanish colonialism.⁵⁸⁸ Céspedes also wrote the Declaration of Independence. In this document, he listed the multiple reasons the Cubans had to pursue independence from Spain, while displaying his liberal thinking by claiming the recognition of political rights for creoles, such as equality, as well as freedom of speech, association, and press. Céspedes demanded creoles' political participation and access to public positions in Cuba, mostly occupied by *peninsulares*. He also demanded that Spain to stop taking away all Cuban resources and wealth rather than using them to pursue the progress and modernization of the island. Furthermore, he demanded the abolition of slavery and access to free trade.⁵⁸⁹ That was the beginning of

⁵⁸⁸ Bernal Gómez, 258 – 260; and De la Fuente, *A Nation for All: Race, Inequality and Politics in Twentieth Century Cuba* (University of North Carolina Press, 2001), 30.

⁵⁸⁹ Carlos Manuel de Céspedes, *Declaración de Independencia* (1868), in Isabel Monal and Olivia Miranda, *Pensamiento político cubano: siglo XIX*, (Editorial Ciencias Sociales, Havana, 2002), 3 – 5, and Hortensia Pichardo, 361. “Nadie ignora que España gobierna la isla de Cuba con un brazo de hierro ensangretado; no solo no la deja seguridad en sus propiedades, arrogandose la facultad de imponerla tributos y contribuciones a su antojo sino que teniendola privada de toda libertad política, civil y religiosa, sus desgraciados hijos se ven expulsados de su suelo a remotos climas o ejecutados sin forma de proceso, por comisiones militares establecidas en pena paz, con mengua de poder civil. La tiene privada del Derecho de reunión como no sea bajo la presidencia de un jefe military; no puede pedir el remedio de sus males, sin que se la trate como rebelde, y no se le concede otro recurso que callar y obedecer.

La plaga infinita de empleados hambrientos que de España nos inunda el producto de nuestros bienes y de nuestro trabajo; al amparo de la despótica autoridad que el gobierno español pone en sus manos y priva a nuestros mejores compatriotas de los empleos públicos que requiere un buen gobierno, el arte de conocer como se dirigen los destinos de una nación; porque auxiliada del sistema restrictivo de enseñanza que adopta desde España que seamos tan ignorantes que no conozcamos nuestros sagrados derechos, y que si los conocemos no podamos reclamar su observancia en ningún terreno.

(...) nosotros creemos que todos los hombres somos iguales, amamos la tolerancia, el orden y la justicia en todas las materias; respetamos las vidas y propiedades de todos los ciudadanos pacíficos, aunque sean los mismos españoles, residentes en este territorio; admiramos el sufragio universal que asegura la soberanía del pueblo; deseamos la emancipación, gradual y bajo indemnización, de la esclavitud, el libre cambio con las naciones amigas que usen de reciprocidad, la representación nacional para decretar las leyes e impuestos, y, en general, demandamos la religiosa observancia de los derechos imprescriptibles del hombre, constituyendonos en nación independiente, porque así cumple a la grandeza de nuestros futuros destinos, y porque estamos seguros de que bajo el cetro de España nunca gozaremos del franco ejercicio de nuestros derechos.”

the revolution, and Céspedes' leadership was the reason why he would be dubbed the Father of the Cuban nation.

The colonial authorities initially perceived the rebellion as an isolated event. The uprising, however, spread across Eastern Cuba, including the city of Bayamo and its vicinities. Having learned that Carlos Manuel de Céspedes rose in Manzanillo on October 10th, 1868, Figueredo mobilized the revolutionary forces in Bayamo. The local government and the members of the *Colegio* decided to surrender the city to the revolutionary army. In 1868, the *Colegio* of Bayamo consisted of thirty-one lawyers: seven from Holguín, eight from Manzanillo, and sixteen residing in Bayamo, and half of them joined the insurrection, including its Dean Pedro Figueredo and the members of the Board of Directors.⁵⁹⁰ Céspedes seized Bayamo on October 20th, 1868, and tried to hold it until deciding to burn the city on January 12th, 1869, to avoid its recapture by Spain.⁵⁹¹

Other members of the Board of the *Colegio de Bayamo* followed Dean Figueredo: First Deputy Esteban Estrada, Treasurer Francisco Esteban Tamayo Gonzalez-Ferregur, and Vice Secretary Joaquín Acosta Fonseca. After studying law in Havana and Spain, Esteban Estrada established a prestigious law firm in Bayamo in 1840, where he held public positions such as Major of Bayamo, and Dean of the *Colegio de Bayamo* until 1864.⁵⁹² In 1866, Estrada began his involvement in antimonarchical conspiracies, and later participated in the foundation of the Revolutionary Board of Bayamo in 1867. In October

⁵⁹⁰ *Guía de Forasteros de la Siempre Fiel isla de Cuba*, Imprenta del gobierno, Habana, 1868.

⁵⁹¹ About the burning of the city of Bayamo, see Antonio Miguel Alcover Beltrán, *Bayamo, su toma, posesión e incendio (1868 – 1869): reseña histórica y comentarios oportunos*, Imprenta La Australia, 1902.

⁵⁹² *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1864), 179; and *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1868), 162.

of 1868, Estrada joined the uprising and supported the military capture of Bayamo by the rebels from the interior of the town, gaining many supporters with his public speeches and organizing rallies.⁵⁹³ Francisco Esteban Tamayo González-Ferregur had been born in Bayamo on April 1st, 1816. He established a law firm in that city and became a member of the *Colegio* in 1842.⁵⁹⁴ In 1868, Tamayo joined the rebels and Spain declared him *infidante*, proceeding to the confiscation of his properties in 1870.⁵⁹⁵ Joaquín Acosta Fonseca graduated from the School of Law in Havana in 1850, and established his law firm in Bayamo, becoming one of the leaders of the rebellion in Bayamo, and one of the supporters of its burning as an act of resistance against the Spanish troops.⁵⁹⁶

Along with the members of the Board, five other *colegiados* with residence in Bayamo joined the revolutionary forces: Luis Fernández de Castro, Francisco Maceo Osorio, Ramón Céspedes Barrero, Jorge Carlos Milanés Céspedes, and Lucas del Castillo Moreno. Céspedes Barrero was a member of the *Colegio of Bayamo* since 1842 and Dean in 1861 until he became *Regidor* of the city in 1865, eventually turning into one of the leaders of the uprising.⁵⁹⁷ Milanés Céspedes, born in Bayamo in 1823 and graduated from the University of Havana, participated of the plots, and supported Céspedes' occupation of

⁵⁹³ AHN ULTRAMAR 4438, Expediente 6. File pertaining to the prosecution of the traitor Esteban Estrada that contains the documentation confiscated from him at the momento of his capture.

⁵⁹⁴ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1842), 181.

⁵⁹⁵ AHN ULTRAMAR 4352, Exp. 13. File of the prosecution of Francisco Esteban Tamayo accused of treason to Spain.

⁵⁹⁶ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Havana, 1850 – 68 ; and Aldo Daniel Naranjo and Angel Lago Vieito, *Hijos de la Fraternidad : los dominicanos en la insurrección cubana, 1868 – 1878* (Ediciones Bayamo, 2001), 90.

⁵⁹⁷ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1842), 181; *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Imprenta del Gobierno, Havana, 1861), 160.

Bayamo, and its subsequent burning.⁵⁹⁸ Lucas del Castillo Moreno was born on November 16th, 1820, in Bayamo, and studied law in Havana and Barcelona until he returned to his hometown becoming a lawyer, a poet and a journalist. Castillo Moreno published various liberal newspapers: *El Boletín*, in Bayamo, and *El Eco*, *La Antorcha*, and *La Aurora*, in Manzanillo, and joined the forces of Céspedes' uprising in October of 1868.⁵⁹⁹

Other lawyers from the *Colegio* of Bayamo who resided in Manzanillo and Holguín also became involved in the Ten Years Wars spreading the fight to those areas. From Manzanillo, Gregorio Santisteban García, Joaquín Oro and Francisco Tamayo Fleites incorporated themselves into the war effort by raising funds and troops for the revolution.⁶⁰⁰ From Holguín, José Joaquín Castellanos Remón and José Justo de Aguilera Cruz also mobilized for the rebel cause, becoming military leaders of that city's uprising.⁶⁰¹ In sum, half of the lawyers of the *Colegio de Abogados* of Bayamo joined the military forces against Spanish colonialism, which caused a significant downsizing of the number

⁵⁹⁸ Various members of the insurrection had the name Céspedes but not all of them were related to Carlos Manuel de Céspedes.

⁵⁹⁹ Modesto Arquímedes Tirado Àviles, *Efemérides de Manzanillo, 1512 – 1899*, Vol. I. (Manzanillo, 1989), 126.

⁶⁰⁰ AHN ULTRAMAR 4417, Exp. 54, File promoted by Ángela Xiques requesting the de-confiscation of the properties of his late husband Gregorio Santisteban prosecuted for treason to Spain, AHN ULTRAMAR 4434, Exp. 32. Governor of Cuba requests to the Spain cónsul in New York report about the political conduct in this city Joaquín Oro, suspect of treason, AHN ULTRAMAR 4362, Exp. 45, Captain General of Cuba informs the Spanish government of the request of the military chief of Manzanillo to arrest the traitors Francisco Tamayo Fleites and his son Porfirio Tamayo.

⁶⁰¹ Raymundo Cabrera, "Las Convenciones," in *Cuba y América: Revista Ilustrada*, Issues 21 – 39, 1902, 389, and AHN ULTRAMAR 4342, Exp. 37, The government of Puerto Rico notifies the arrival to this island the political exiled from Cuba and traitor José de la Cruz Aguilera.

of providers of legal services in the jurisdiction of Bayamo. According to the *Guías de Forasteros*, just four lawyers remained at work in the region.⁶⁰²

In contrast to the *Colegio* of Bayamo, lawyers of the *Colegio* of Santiago de Cuba did not engage in the war for Cuban independence at the time. With 37 members, the *Colegio* of Santiago de Cuba included 33 *letrados* with residence in that city, two established in Guantánamo, and one in the village of Baracoa.⁶⁰³ The Dean of the *Colegio* was Francisco Soriano, of whom there is no evidence of participation in any meetings or conspiracies against the Spanish regime. During the ten years that the war lasted, the membership of the *Colegio* did not change significantly remaining approximately thirty members through 1878.⁶⁰⁴ Only a couple of *colegiados* from Santiago rose against Spain. One of them was Gonzalo Villar Portuondo, who joined the revolutionary forces until being imprisoned in 1869, and was sent into exile to Spain where he died in 1875.⁶⁰⁵ The other, Leopoldo Augusto Arteaga, moved to Las Villas avoiding political persecution and joined the uprising in that territory.⁶⁰⁶ Nine other lawyers disappeared from the lists of the *Colegio* between 1868 and 1878; but it is unclear whether or not they joined the revolution.⁶⁰⁷

⁶⁰² *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Havana, 1872.

⁶⁰³ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Habana, 1868.

⁶⁰⁴ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Habana, 1878.

⁶⁰⁵ AHN ULTRAMAR 5841, Exp. 2 File of the prosecution for treason of Lic. Gonzalo Villar Portuondo between 1869 and 1872; ULTRAMAR 5841, Exp. 1 José Villar Correa requests the properties confiscated to his late father Gonzalo Villar Portuondo in 1875.

⁶⁰⁶ AHN ULTRAMAR, 4444, Exp. 4 File of the treasury of the island of Cuba against the traitor Leopoldo Arteaga in 1873 informing of his absence from Santiago and his relocation to Las Villas.

⁶⁰⁷ These lawyers were Francisco Soriano, Emiliano Odio, Sebastian Amabile, Ignacio Gutierrez Hidalgo, Cornelio Fuentes, Francisco Miranda, Joaquín Ibañez, José Godoy, and Fernando Ferratges. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Habana, 1868; and *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Habana, 1877 and 1878.

Regardless of their political position, some *colegiados* suffered the policies of Spanish colonialism on the island. For example, local authorities confused Santiago Rodríguez Correoso, a lawyer who passed away before 1868, with the conspirator Antonio Benítez Correoso, and confiscated his properties.⁶⁰⁸ Other Cuban territories, however, followed the revolutionary path of Bayamo and its lawyers.

The second uprising for Cuban independence took place in Puerto Príncipe, on November 4th, 1868. A very wealthy region, a group of families controlled this territory through the ownership and management of sugar cane plantations and cattle *haciendas*. Most of the members of the conspiracy in Puerto Príncipe belonged to those prestigious families including some with last names such as Adán, Agramonte, Agüero, Betancourt, Boza, Castillo, Estrada, Iraola, Loynaz, Mora, Miranda, Mola, Montenegro, Mora, Piña, Recio, Sánchez, Sterling, Varona, Xiques, and Zayas, among others. At the same time, those families also had members dedicated to the legal profession who belonged to the *Colegio de Abogados*, which reached 40 lawyers in 1868.⁶⁰⁹ As with the lawyers from Havana, these families interrelated through marriages, creating a complex network of support and cooperation. The Agramonte family provided one of the best examples of those networks within the region.

The Agramonte family included fourteen lawyers in Puerto Príncipe during the nineteenth century and had created alliances with other notable families of the region, especially the Recio and Sánchez clans. Some Agramontes became leaders of the local

⁶⁰⁸ AHN ULTRAMAR 4343, Exp. 23. Order from 1870 of the Governor of Cuba to return the properties of the late Licenciado Santiago Benitez Correoso that were mistakenly confiscated in 1868, to his family.

⁶⁰⁹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Habana, 1868.

legal community, and Deans of the *Colegio* of Puerto Príncipe. For example, Francisco José Agramonte Recio was elected Dean at the time of the constitution of the *Colegio*, in 1831, and remained in that position until 1833.⁶¹⁰ That year, another member of the family, José María Agramonte Recio replaced him as Dean of the *Colegio* for the following years.⁶¹¹ In the decade of the 1860s, the position of Dean of the *Colegio* still belonged to this familial network by connection with Francisco José Agramonte Sánchez.⁶¹² The family extended its control over Puerto Príncipe beyond the *Colegio de Abogados*, when one of the *Regidores* of the city during the 1860s was Ignacio Agramonte Sánchez, also a lawyer.⁶¹³ Additionally, there were members of this family working in the *Audiencia*, and within the Board of the *Academia de Legislación y Jurisprudencia*.⁶¹⁴ Not surprisingly, the leader of the revolutionary movement in Puerto Príncipe was one of the youngest members of this family, Ignacio Agramonte Loynaz.

Ignacio Agramonte Loynaz was born in Puerto Príncipe in 1841. Similar to many of his ancestors and relatives in the region, his father was also a lawyer, Ignacio Agramonte Sánchez. Pereira. After spending three years studying in Barcelona, Agramonte Loynaz attended the School of Law at the University of Havana, where he finished the *Licenciatura* in Law in 1865, and later the Doctorate in Law in 1867. As many of his contemporaries, he received the influence of liberalism first in Spain, and later in Cuba. His views of the

⁶¹⁰ *Guia de Forasteros*, 1831, 1832, 1833.

⁶¹¹ *Guia de Forasteros*, 1834.

⁶¹² *Guia de Forasteros*, 1860, 1861, 1862, 1866.

⁶¹³ *Guia de Forasteros*, 1865.

⁶¹⁴ *Guia de Forasteros*, 1831 al 1867.

situation of the colony reflected the ongoing political crisis and, during his residence in Havana, Agramonte witnessed the failure of the *Junta of Información* of 1866, an event that might have radicalized his political views. Agramonte involved himself with several revolutionary groups in Puerto Príncipe including the Free Masons, organized by Salvador Cisneros Betancourt, a local landlord who held the title of Marqués de Santa Cruz and had graduated as an engineer in Philadelphia.⁶¹⁵ Shortly after his return to Puerto Príncipe, Agramonte became one of the leaders of the uprising in that territory, and eventually the caudillo of the region.⁶¹⁶

Agramonte was not the only lawyer involved in the rebellion of Puerto Príncipe. As its counterparts from Bayamo, the members of the *Colegio* of Puerto Príncipe massively mobilized in what was known as the rebellion of Las Clavellinas. By the beginning of the revolution, there were approximately forty lawyers in this *Colegio*.⁶¹⁷ At least four lawyers participated directly in the uprising: Fernando Betancourt Agramonte, Gerónimo Boza Agramonte, José Recio Betancourt, and Francisco Sánchez.⁶¹⁸ All of them belonged to the network created by the same families that controlled the region and, by extension, the *Colegio de Abogados*, resulting in many members of the *Colegio* having personal ties to other members of the insurrection. Thus, it seems that when Spanish authorities identified Puerto Príncipe as another center of rebellion, they ordered the closing the *Colegio de*

⁶¹⁵ Gonzalo de Quesada and Henry Davenport, *Cuba's Great Struggle for Freedom* (American Book and Bible House, 1898), 533.

⁶¹⁶ Bernal Gómez, *Cuba: Juristas de la independencia*, 260 - 263.

⁶¹⁷ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, (Imprenta del Gobierno, Havana, 1867), 181- 182.

⁶¹⁸ Vidal Morales, 90-91; and Emilio Augusto Saulore, *Historia de la Insurrección de Cuba (1869 – 1879)* (J. Pons, 1879), 72.

Abogados in 1868. Similarly to the *Colegio de Abogados* de Bayamo, the *Colegio de Abogados* of Puerto Príncipe disappeared from official publications such as the *Guías de Forasteros*. To be sure, some lawyers did not engage in the uprising, including the former Dean José Francisco Agramonte Sánchez, but the list of the lawyers that continued working in the area was not published again until 1877 when their number reduced from forty lawyers to no more than twelve.⁶¹⁹ This was a significant development considering that the city hosted the first *Audiencia*, the *Colegio* of Puerto Príncipe was the first of these institutions that Spain authorized in Cuba, and it accounted for the largest and more established membership across the island.

As the *Colegio* of Santiago in the East, *Colegios de Abogados* of the center of the island did not massively join the revolution. The lawyers in the towns of Trinidad, Sancti Spiritus, Santa Clara, Remedios, Sagua and Cienfuegos had not supported Fernández de Castro or Pedro Figueredo when they tried to recruit them in 1867, and only a few of them followed the decision of their colleagues from Bayamo or Puerto Príncipe to rise against Spain. José Joaquín Machado Gómez, for example, joined the rebellion in Santa Clara, and, upon being discovered by the local forces in 1870, fled to New York where he remained until the end of the war.⁶²⁰ From the city of Cienfuegos, two lawyers revolted against Spain: Leopoldo Augusto Arteaga, who had moved from Santiago de Cuba and conspired against

⁶¹⁹ The lawyers that continued working in Puerto Príncipe were José Manuel de la Torre Izquierdo, José Antonio Márquez, Manuel Castellanos Aguilar, Felipe Sebrango Sebrango, José Tomás de la Victoria, Pablo Roura Carnesoltas, Francisco Agramonte Sánchez, Antonio Varona de la Torre, Pedro Luis López García, Carlos Ortega Torres, José Pío Govín, and José Agustín Recio. See *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, (Imprenta del Gobierno, Habana, 1877), 142.

⁶²⁰ AHN ULTRAMAR, 4407, Exp. 74. This file contains Federico Edelman's request for confirmation that José Joaquín Machado Gómez listed in the declaration of embargo was the same that moved to New York as part of his involvement with the insurrection.

Spain until his prosecution in 1873; and Rafael Fernández del Cueto, who was also apprehended by the Spanish forces also in 1873, his properties confiscated, and sent into exile in the Isla de Pinos.⁶²¹ In addition to the lawyers from Cienfuegos and Santa Clara, the city from the center of Cuba that housed the largest number of *infidente* lawyers was Sancti Spiritus.

In 1868, there were 25 lawyers working in Sancti Spiritus.⁶²² Most of them aligned with the majority of their colleagues in Las Villas, who did not support the war with Spain. Five lawyers, however, engaged in the conspiracy and openly rose against Spain. They were Antonio María Cancio, Joaquín Mariano de Cañizares, Gabriel Fernando Mendigutias, Juan Bautista Rodríguez Gallo, and Félix Serrano. Cancio was a lawyer in Sancti Spiritus since 1853, and joined the conspiracy until being apprehended in 1875, when local authorities sent him to Havana and later the Isla de Pinos.⁶²³ Cañizares, who had practiced as an attorney in Sancti Spiritus since 1826, became a member of the revolutionary movement by 1869, until his incarceration in 1876.⁶²⁴ Mendigutias worked as a lawyer in Sancti Spiritus from 1842, and, having revolted by 1868, was seized by Spanish troops and sent into exile in 1869.⁶²⁵ Rodríguez Gallo, also a lawyer with an

⁶²¹ AHN ULTRAMAR, 4444, Exp.4 File for *infidencia* against Leopoldo Arteaga; AHN ULTRAMAR, 4773, Exp. 21. File for the return of the properties confiscated to the *infidente* Rafael Fernández del Cueto in 1872.

⁶²² *Guías de Forasteros de la Siempre Fiel Isla de Cuba*, 1868.

⁶²³ AHN ULTRAMAR, 4374, Exp. 44. File for the liberation of Antonio Maria Cancio between 1875 and 1876 for charges of *infidencia*.

⁶²⁴ AHN ULTRAMAR, 4415, Exp. 44, File of the Spanish government requesting information regarding to the *preso político* Joaquín Mariano de Cañizares. *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, 1826 – 1868.

⁶²⁵ AHN ULTRAMAR 4771, Exp. 40. File of the *infidente* Mendigutias requesting to return to Cuba in 1870 from his exile in Spain.

estudio open since 1847, joined the conspiracy until his capture in 1873.⁶²⁶ Finally, Serrano, a lawyer since 1850 who had been appointed as *juez de paz* in 1868, joined the rebellion in 1869, until a member of the *Voluntarios de Color*, a pro-Spanish paramilitary group formed by African descendants, denounced him causing his arrest.⁶²⁷

The *Guías of Forasteros* hinted at this mobilization. Although few lawyers of Central Cuba rose against Spain, the *Colegios de Abogados* of Trinidad, Sancti Spiritus and Cienfuegos also disappeared from the official publications, which might imply that these institutions closed.⁶²⁸ They had listed around 50 lawyers in 1868, but this number decreased by a third in 1878, probably symbolizing the execution, exile or purge of those who joined the revolution.⁶²⁹

The situation in the Western cities of Cuba was completely different. With the largest concentration of lawyers, many of these cities did not get involved in the revolution, although a significant number of their legal professionals still conspired against Spain and some of them became prosecuted for the crime of *infidencia*. Those who did not fight included two groups: moderated liberals that did not support the separation between Cuba and Spain, and conservatives, a local political group led by *peninsulares* who wanted to preserve Spanish control over the island and opposed the liberal reforms.

⁶²⁶ AHN ULTRAMAR, 4770, Exp. 39. File of political deportees including the authorization to return to Cuba of Juan Bautista Rodríguez Gallo.

⁶²⁷ AHN ULTRAMAR, 4418, Exp. 13. File initiated by the teniente gobernador of Sancti Spiritus against Felix Serrano and other members of the conspiracy that operated in that territory. On the role of Afro-Cuban militias paid by Spain, see David Sartorius, *Ever Faithful: Race, loyalty, and the Ends of Empire in Spanish Cuba*, Duke University Press, 2013.

⁶²⁸ *Guías de Forasteros de la Siempre Fiel Isla de Cuba*.

⁶²⁹ See *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, Imprenta del Gobierno, Habana, 1867, 1877 and 1878.

For moderate liberals the war was not the solution. In Western Cuba, lawyers had not mobilized upon the call for the uprising from the *Bayamés* Pedro Figueredo when José Morales Lemus refused to support the uprising in 1867. Morales Lemus, however, changed his mind and started considered joining the conspiracy shortly after. He sent Francisco Javier Cisneros, a civil engineer from Santiago de Cuba that was working in Havana, to find out about the status of the uprising in the rest of the island.⁶³⁰ Cisneros, director of *La Opinión*, the newspaper that substituted *El Siglo* in 1868, was a moderate liberal.⁶³¹ He realized that provincial leaders had diverse opinions about the conditions and proper timing for the uprising. Based on Cisneros' reports, Morales Lemus did not pursue any further actions at that time and waited for Eastern radical liberals to rise.⁶³²

After the uprisings of Bayamo and Puerto Príncipe in 1868, liberals from Havana, including many lawyers, began a conspiracy against Spain in the capital. They created the Revolutionary Board of Havana, led by Morales Lemus, and started collecting funds to be sent to the Cuban Army in the East. The Board also organized the uprising of some Western Cuban towns including Guanajuay, Candelaria, Jagüey Grande, and Colón.⁶³³ At least twenty-two men became involved in those conspiracies, and fourteen of them were lawyers.⁶³⁴

⁶³⁰ Morales y Morales, 91.

⁶³¹ Ibid, 89.

⁶³² In the 1870s, Francisco Javier Cisneros moved to Colombia, where he worked as an engineer and played a crucial role in the creation of the railroad and vapor systems in this country.

⁶³³ Morales y Morales, 90.

⁶³⁴ José Francisco de Cárdenas Gassie, Hilario Cisneros Correa, Federico Gálvez Abella, José María Gálvez Alfonso, Sixto Guereca, José Hernández Abreu, Pedro Martín Rivero, Federico Martínez Quintana, José Manuel Mestre Domínguez, José Morales Lemus, José Lorenzo Odoardo, Enrique Piñeiro, Wenceslao Ramírez de Villaurrutia, and Ambrosio Valiente Duany. See Vidal Morales, 89 – 90.

Once again, local authorities identified lawyers as part of anti-colonial movements and increased the surveillance over legal professionals, especially those with political antecedents. In 1869, for example, the *vecino* of Havana José Valdés denounced Santiago Bombalier, a lawyer already renowned as annexationist, for having said the phrase: *la cosa está hecha en Cuba* (the thing is done in Cuba) referring to military insurgency on the island. Bombalier also published a proposal of an independentist Cuban constitution. Consequently, Bombalier was prosecuted for *infidencia* and the Spanish authorities confiscated his properties that year. He was sent into exile in Spain, escaping to France where he finally settled.⁶³⁵

Another legal professional linked to conspiracies in the capital was the former magistrate José Silverio Jorrín. Based on his services in the colonial judiciary system, Jorrín received the Carlos III recognition from the Spanish government in 1864, upon recommendation from the Captain General Domingo Dulce.⁶³⁶ At the same time, Jorrín enjoyed a remarkable reputation among the creole society, resulting in his election to the post of President of the *Sociedad Económica Amigos del País* in 1865.⁶³⁷ Jorrín, however, increasingly involved himself in the conspiracies against Spain during the following years establishing friendship with annexationist Máximo Du Bouchet. For that reason, the colonial authorities accused Jorrín of *infidencia*, confiscated his properties, removed his honors and titles, and deported him to Spain. After several requests, the Spanish

⁶³⁵ AHN ULTRAMART 4447, Exp. 39. Letter dated November 20th, 1869 containing a list of four *infidentes*, whom properties will be confiscated, including Santiago Bombalier.

⁶³⁶ AHN ULTRAMAR 4695, Exp. 3. Proposal of the Captain General for the concession of the *encomienda* Carlos III to José Silverio Jorrín.

⁶³⁷ Mark Abendroth, *Rebel literacy: Cuba's national literacy campaign and critical global citizenship* (Litwin Books, 2009), 28.

government granted him permission to move to France in 1871, but he could not return to the island until the end of the war.⁶³⁸ To avoid prosecution, Federico Gálvez Abella, José María Gálvez Alfonso, José Morales Lemus, Enrique Piñeiro, and many other lawyers from Havana left Cuba and joined the Revolutionary Board working in New York City.⁶³⁹

Turning Ideas into Laws: Enactment of Liberal Legislation in Times of War.

When the war stormed in 1868, lawyers became warriors, serving as soldiers of the rebel army that fought for the independence of the island from Spain. This meant that some lawyers put their careers on hold to engage in the military conflict against Spanish colonialism. These legal professionals, however, brought to the battlefield their legal minds; and they also put their training, knowledge and skills at the service of the revolution. In the territories controlled by the rebel forces, radical liberals organized a provisional government and enacted laws based on modern ideas that differed from the Spanish ones, while being inspired by the European civil law tradition. Those laws embodied the legal and political thinking of creoles and were the genesis of Cuban national legislation.

Legislative proposals were not new among Cuban liberal thinkers. Throughout the nineteenth century, creoles had proposed laws and legislative reforms to Spain as a mechanism to implement a liberal agenda. The content of those initiatives varied but they usually included abolition of slavery and free trade, two of the most common requests from

⁶³⁸ AHN ULTRAMAR 4771, Exp. 1. File of the prosecution of José Silverio Jorrín for political crimes.

⁶³⁹ Morales y Morales, 515 – 541. This chapter explains the organization of various separatist clubs among Cubans that emigrated to New York, Key West, Jamaica, and Santo Domingo, and it mentions the work of some of these lawyers in the exile. Also see the work of the group of lawyers in New York led by Morales Lemus in Milagros Galvez Aguilera, *Expediciones navales en la Guerra de los Diez Años, 1868 – 1878* (Ediciones Verde Olivo, 2000), 43 – 44.

progressive creoles and two tenets of liberalism. These initiatives mostly belonged to the field of public law. Francisco de Arango y Parreño, José de la Luz y Caballero, Joaquín Infante, Félix Varela, Gabriel Claudio de Zequeira and Narciso Lopez, for instance, drafted constitutions with liberal provisions, some of which found their way to Spain for consideration by the Cortes.⁶⁴⁰ Lawyers in campaign continued this law-making initiative and decided to draft revolutionary laws to enforce in freed territories.

Five months from the start of the war, multiple territories of Cuba had joined the revolution; but each of them still operated within their boundaries and lacked an official and central organization. These territories included parts of Eastern Cuba, Puerto Príncipe and Las Villas, while Santiago de Cuba and Western Cuba, including Havana and Matanzas, remained under Spanish control. Each territory created a revolutionary board mostly focused on the preparation and support of the uprisings rather than local government or administration.

From the judicial perspective, the revolutionaries implemented a system of military justice. As people became involved in the revolution, episodes of treason started happening among Cuban troops. The most notable of these events took place in Puerto Príncipe when Napoleón Arango tried to stop the revolution at the beginning of 1869 by demoralizing the

⁶⁴⁰ For these constitutional projects see Carreras Collado, Julio, *Historia del Estado y del Derecho en Cuba*, (Editora Política, Havana, 1981), 153 - 170; Enrique Hernández Corujo, *Historia Constitucional de Cuba*, (Compañía Editora de Libros y Folletos, Havana), 195 and 196; Emilio Portell Vilá, *Narciso Lopez y su época*, Tomo II (Havana: Cultural, S.A., 1930), 101; José María Chacón y Calvo, *El Padre Varela y la autonomía colonial*, Editorial Molina, La Habana, 1935; Hortensia Pichardo, *Documentos para la Historia de Cuba*, 253; Enrique Hernández Corujo, *Historia Constitucional de Cuba*, (Compañía Editora de Libros y Folletos, Havana), 65, Beatriz Bernal, *Juristas por la independencia*, 253 – 255; Antonio Filiu Franco Pérez, *La eclosión del particularismo cubano: el proyecto descentralizador de Jose A. Caballero (1811)*, *Historia Constitucional (revista electronica)*, n. 1, 2000:<http://hc.rediris.es/01/index.html>, 165 – 185.

Cuban leaders.⁶⁴¹ This kind of event led to the establishment of an insurgent Martial Court in the small town of Sibanicú. Young lawyers recently graduated from the University of Havana mostly ran this court: President Luis Victoriano Betancourt Salgado, Vocal Ramón Perez Trujillo, and Secretary Rafael Morales González.⁶⁴² Since available evidence is scarce, the works of this Martial Court remain unexplored. It is also unclear what legislation it might have applied, and how many deserters it processed. Yet, it is very likely that this Martial Court enforced established Spanish legislation they knew--namely, the one it had been trained on recently in the classrooms of the School of Law. The Martial Court dissolved itself after the establishment of the Republic in Guáimaro, in April of 1869.

Aiming to unify the newly independent territories of Eastern Cuba, leaders of the rebellion decided to write a constitution for the Cuban Republic in Arms based on the rule of law. Representatives of each freed territory met in Guáimaro, a small town between Puerto Príncipe and Bayamo, on April 10th, 1869, to enact the first constitution of liberated Cuba. There were sixteen delegates to the Constituent Assembly, four from each region, and five legal professionals among them: lawyers Carlos Manuel de Céspedes, Francisco Sánchez Betancourt, Antonio Zambrana Vázquez and Ignacio Agramonte, and *procurador* Jesús Rodríguez Aguilera.⁶⁴³ The constituents were divided: a faction led by Céspedes argued that the revolutionary regime should be military while the rest sided with

⁶⁴¹ José Joaquín Ribó, *Historia de los voluntarios cubanos: hechos más notables en que ha tomado parte aquel benemerito cuerpo, fines de su creación, refutación de los cargos dirigidos al mismo y apuntes biográficos de sus principales jefes*, Vol. 1 (Imprenta de N. Gonzalez, 1876), 311.

⁶⁴² Morales y Morales, 126.

⁶⁴³ This Antonio Zambrana is related to the professor of Criminal and Procedural Law at the University of Havana; but not the same individual.

Agramonte, who proposed a civil government with a subordinated military branch.⁶⁴⁴ After voting, Agramonte's group won.

The Constitution of Guáimaro was the first that applied to Cuban territories. Its twenty-nine articles embodied the liberal thinking of those who participated in its enactment. Guáimaro consecrated the notion of freedom from its preamble that stated that “the representatives of the free people of Cuba” were issuing the charter, and representative government by free people was one of the founding ideas of liberalism. Other liberal approaches related to the structure of the state including separation of powers, the rule of law, and a federal system. Concerning rights, the Constitution introduced many liberal freedoms such as religion, speech, association, as well as equality before the law, and the abolition of slavery.⁶⁴⁵

The Guáimaro Constitution provided three branches of power: legislative, executive and judicial. The first revolutionary government was composed as follows: President: Carlos Manuel de Céspedes, Secretary of War: Francisco Vicente Aguilera, Treasurer: Eligio Izaguirre, Domestic Affairs: Eduardo Agramonte Piña, and International Relations: Cristóbal Mendoza.⁶⁴⁶ The Army was divided into three divisions: Camagüey, Oriente and Las Villas, led by Ignacio Agramonte, Tomás Jordán, and Federico Cavada, respectively.⁶⁴⁷ As per the Constitution, the Army was subordinated to the civilian government that should vote and approve military actions.

⁶⁴⁴ See Juan J. Pastrana, *Ignacio Agramonte: su pensamiento político y social*, Editorial de Ciencias Sociales, 1987.

⁶⁴⁵ Hortensia Pichardo, *Documentos para la Historia de Cuba*, Constitucion de Guaimaro, Cuba, 1869.

⁶⁴⁶ Morales y Morales, 171.

⁶⁴⁷ *Ibid*, 171 – 172.

The House of Representatives was in charge of enacting the laws of the newly minted Republic. The initial House of Representatives was constituted of fourteen members, four of whom had legal experience: lawyers Francisco Sánchez Betancourt, Antonio Zambrana Vázquez, Ignacio Agramonte, and *procurador* Jesús Rodríguez Aguilera. In addition, there were three medical doctors, two teachers, an engineer, a pharmacist, a journalist, and two merchants.⁶⁴⁸ Therefore, legal professionals were the largest group within the House. The President of the House, Salvador Cisneros Betancourt, and the Vice President, Miguel Gerónimo Gutiérrez, were an engineer and a journalist, respectively. The Secretaries of the House, however, were Agramonte and Zambrana, who had recently graduated as lawyers. Their fresh legal vision turned them into the authors of most of the revolutionary legislations the House would enact.

Like Agramonte, Antonio Zambrana was a creole liberal lawyer. Zambrana was born in Havana on June 19th, 1846, and attended liberal José de la Luz Caballero's Colegio El Salvador, in the western region of the island in Carragua.⁶⁴⁹ Zambrana graduated from the School of Law of the University of Havana in 1867, joining the conspiracies immediately after the uprising. Zambrana had an active participation in the writing of the constitution, the establishment of the government, and later in the politics of the republic until forcibly leaving Cuba for New York in 1873.⁶⁵⁰ Along with Agramonte and Zambrana, Rafael Morales González, former Secretary of the Martial Court in Sibanicú, became a member

⁶⁴⁸ President Miguel Gerónimo Gutiérrez, Deputies: Salvador Cisneros Betancourt, Manuel Valdés, Honorato del Castillo, Miguel Betancourt Guerra, José María Izaguirre, Arcadio Garcia, Eduardo Machado, Antonio Lorda, Antonio Alcala, Jesús Rodríguez Aguilera, Francisco Sánchez Betancourt, and Secretaries: Antonio Zambrana and Ignacio Agramonte.

⁶⁴⁹ Raimundo Cabrera, *Cuba and the Cubans* (The Levytype Company Philadelphia, 1896), 364.

⁶⁵⁰ Morales y Morales, 175.

of the House of Representatives on July 26th, 1869. Also a young liberal lawyer, Morales graduated from the University of Havana in 1866, and participated of the conspiracies in this city during his term as a law student.⁶⁵¹

The House of Representatives started working immediately. Inspired on liberal creoles' aspirations, the House enacted many laws between 1869 and 1870.⁶⁵² In 1869, the House passed the Law of Civil Marriage on June 4th, a Law of Military Organization on July 9th, a Law of Territorial Division on August 6th, a Law of Administrative Organization on August 8th, and a Law of Public Positions on August 12th. In 1870, they enacted the Law for the Organization of Cabinet and Secretaries of the State on February 24th, and the Electoral Law shortly after.⁶⁵³

Revolutionary legislation covered a wide array of matters. Most of these laws were manifestations of the modern thinking of Cuban lawyers partly breaking with traditional and conservative Spanish laws on family and other social issues. The Law of Civil Marriage, for example, challenged the supremacy of Catholic marriage by establishing the notion of these unions as a civil contract rather than an indissoluble sacrament. Still, reflecting the social conventions of its time, the law preserved the leading role of the husband as the protector of the wife. Nevertheless, the revolutionary law granted both spouses the option to petition for divorce. Although the marriage could only be dissolved

⁶⁵¹ Morales y Morales, 47.

⁶⁵² The Glorious Revolution pushed progressive liberal legislation in Spain including the law for the abolition of slavery in 1870, the free trade act on June 7th, 1869, and modern bank's regulations on January 29th, 1871. See Carreras Collado, Julio, *Historia del Estado y del Derecho en Cuba*, (Editora Politica, Havana, 1981), 251.

⁶⁵³ Carreras Collado, Julio, *Historia del Estado y del Derecho en Cuba*, (Editora Politica, Havana, 1981), 251.

upon the basis of a limited list of causes, the Cuban law was a significant departure from the Spanish Civil Law of Marriage that had declared marriage indissoluble.⁶⁵⁴ Yet, the law preserved the classification of children as legitimate and illegitimate following the Spanish legal tradition and contemporary legislation.⁶⁵⁵

The revolutionary legislation attempted to modernize Cuban values and culture. Along with the Civil Marriage Law, the House passed another bill introduced by Rafael Morales regulating public instruction and education. In the preamble of this project, Morales said: “the country, without neglecting the struggle it was pushed into, recorded the inalienable and imprescriptible rights of man, in a constitution that appears under the fire and roar of combat, as the tables of the law had appeared in Sinai.”⁶⁵⁶ Once again, the idea of modernization and progress came along with the recognition of fundamental rights enforced by the supremacy of the law.

The Law of Public Instruction was composed of six articles. The first article established basic and free universal education, without distinction of gender, age, and, presumably, race, when it said “to all the citizens” a term that would include, as per the Constitution of Guaimaro, every person within the territories of the republic.⁶⁵⁷ The following article listed the courses that would make up basic education: reading, writing, arithmetic, grammar,

⁶⁵⁴ Marcelo Martínez Alcubilla, *Diccionario de la administración española: compilación de la novísima legislación de España peninsular y ultramarina en todos los ramos de la administración pública*, Vol. 7 (Arco de Santa María, 1892), 984. “Artículo 1ro. El matrimonio es por su naturaleza perpetuo e indisoluble.”

⁶⁵⁵ Julio Fernández Bulté, *El Derecho de Familia en Cien Años de Revolución*, Revista Cubana de Derecho, (Año 1, No. 1, Habana, 1972), 136.

⁶⁵⁶ Morales y Morales, 176. “El país, sin desatender la lucha en que se lanzará, consignó los inalienables e imprescriptibles derechos del hombre, en una constitución que aparece bajo el fuego y fragor del combate, como aparecieron en el Sinaí las tablas de la ley.”

⁶⁵⁷ *Ibid.*, 196. “1ro. La república proporcionará gratuitamente la instrucción primaria a todos los ciudadanos de ellas, varones o hembras, niños o adultos.”

geography, history of Cuba, and, as a mark of modernity, rights and duties of men based on the teaching of values derived from Enlightenment and liberalism.⁶⁵⁸ The rest of the articles established the duties of the local authorities to implement this law, placing the secular government, and not the church, be in control of public education in the freed territories.

The practical impact of most of these laws remains unknown since the available evidence does not shed light on their implementation. In any case, Cuban revolutionaries started largely introducing a liberal agenda through the enactment of laws indicative of the relevance of equality under the law, freedom, universal rights, and secularism as basic principles for the making of the modern state. Not every revolutionary, however, agreed to the same liberal agenda. Céspedes, for example, considered these laws premature in times of war, and vetoed some of them, including the Civil Marriage Law.⁶⁵⁹ In fact, contradictions between the legislative and the executive branches constantly interfered with the proper functioning of the government and the implementation of many proposals. In their new role as revolutionary politicians, lawyers appear to have played a central role in fomenting contradictions and internal divisions among Cubans.

Lawyers as Revolutionary Politicians: Contradictions within the Cuban Side.

As stated before, the Constitution of Guáimaro established a government to rule the freed territories. This state seemed organized following the conceptions of modern liberal

⁶⁵⁸ Morales y Morales, 176. “2do. La primera enseñanza se reduce a las clases de lectura, escritura, aritmética y deberes y derechos del hombre. Puede además extenderse a la gramática, geografía e historia de Cuba.”

⁶⁵⁹ Fernández Bulté, 136.

policies in the world, such as those in the United States, France, and the republics of South and Central America, all based on the separation of legislative, executive, and judiciary powers. The Constituents of Guáimaro elected Carlos Manuel de Céspedes as President and head of the executive branch. The first president of the Cuban Republic in Arms was thus a lawyer.⁶⁶⁰

Various lawyers held positions within the revolutionary government. In 1869, the republic included Carlos Manuel de Céspedes, Francisco Vicente Aguilera, and Ignacio Agramonte. Céspedes, as the President, also appointed jurists to other positions. The *Bayamés* Esteban Estrada became State Attorney.⁶⁶¹ Francisco Maceo Osorio was Secretary of the President and, later, Secretary of War and Marine.⁶⁶² Jorge Carlos Milanés Céspedes was appointed Governor of the Province of Oriente, and member of the House.⁶⁶³ Lucas Castillo Moreno occupied positions within the civil government such as *Regidor*, judge, and member of the House of Representatives, respectively.⁶⁶⁴ On February 28th, 1870, Rafael Morales replaced Eduardo Agramonte Piña as Secretary of Internal Affairs, and became a close advisor to President Céspedes.⁶⁶⁵ Also in 1870, Ramón Céspedes, distant relative and *compadre* of Carlos Manuel de Céspedes, was appointed as Foreign

⁶⁶⁰ Hortensia Pichardo, *Documentos para la Historia de Cuba*, Constitución de Guáimaro, Cuba, 1869.

⁶⁶¹ AHN ULTRAMAR 4377, Expediente 65. This file included the petition of Estrada to be sent to Spain, as a modification to the sanction of jail that he has received.

⁶⁶² Chao, Raul Eduardo, *Baragua: Insurgents and exiles in Cuba and New York during the Ten Year War on independence (1868 – 1878)*, (Dupont Circle Editorial, 2009), 281.

⁶⁶³ AHN ULTRAMAR 4937, Expediente 3. In this file, Milanés is mentioned as one of the leaders of the revolutionary government, as well as the positions he held.

⁶⁶⁴ Enrique Ros, *Carlos Manuel de Céspedes: de Yara a San Lorenzo, la lealtad y la perfidia, el brigadier de Cambute, el médico de Jiguaní* (Ediciones Universal, 2010), 32.

⁶⁶⁵ Morales y Morales, 185.

Secretary.⁶⁶⁶ Therefore, lawyers became essential in the functioning of the revolutionary government and the development of the war against Spain. It was not thus a coincidence that an increasing number of former colleagues from the *Colegio de Abogados* from Bayamo joined Céspedes' cabinet, along with friends and relatives.

Other leaders of the revolution interpreted Céspedes' appointments as manifestations of localism and favoritism. This concern spread mostly among those from Puerto Príncipe, territory that, along with Bayamo, had incorporated the largest number of people into the war and had the largest portion of the Army.⁶⁶⁷ Therefore, the pre-war professional networks of lawyers, especially in Eastern Cuba, favored the organization of the newly created Cuban state, while those of Puerto Príncipe criticized their exclusion for appointments in positions of the executive branch. In addition, Céspedes faced severe criticisms from the House for continuing to proposing a militarized government that he considered would be more capable of timely war-time response.⁶⁶⁸

The most significant of the confrontations between Carlos Manuel de Céspedes and the House took place around the removal of Manuel de Quesada y Loynaz as General in Chief of the Cuban Army. Quesada was Céspedes' brother-in-law, being the brother of his wife, Ana María Quesada de Loynaz.⁶⁶⁹ On December 17th, 1869, the House considered that Quesada was trying to concentrate too much power from his military position and started

⁶⁶⁶ John Austin Stevens, and others, *Obituary of Francisco Vicente Aguilera*, at *The Magazine of American History with Notes and Queries*, Vol. 1 (A. S. Barnes, 1877), 272.

⁶⁶⁷ Morales y Morales, 171 – 172.

⁶⁶⁸ Carreras Collado, Julio, *Céspedes* (Editora Política, Havana, 2003), 45.

⁶⁶⁹ *Promoción humana, realidad cubana y perspectivas*: ponencia presentada en la "Segunda Semana Social Católica", La Habana, 17 al 20 de noviembre de 1994, (Fundación Konrad Adenauer, 1996), 166.

debating about his removal. They requested Céspedes' opinion as President, and he sided with Quesada. Since the House voted for the removal, Céspedes' support of Quesada affected even more his reputation, especially when he found himself defending Quesada alone, even without the support of influential Agramonte.⁶⁷⁰ The situation after the removal of Quesada only aggravated when Céspedes appointed him as representative of the Cuban Republic in the United States with the mission to send supplies and ammunitions to Cuba.⁶⁷¹ To worsen the situation, once Quesada arrived to New York, he entered into contradiction with Miguel Aldama, the leader of the *Junta Revolucionaria* in that city, splitting the Cuban forces in exile and preventing the Cuban Army from receive external support until their disagreements were resolved.⁶⁷²

During the following two years, the presidency of Céspedes became increasingly controversial. Although Céspedes still enjoyed some respect among officials within the Cuban state and the military, representatives of Puerto Príncipe continuously plotted against him. Agramonte questioned Céspedes leadership, and circulated a letter on May 21st, 1870 claiming for actions against his government: “where will the contemplation and lack of energy of the House of Representatives take us? Until when will they appear impassible before so many abuses? Will they expect Céspedes and his henchmen to ruin the country to proceed with energy?”⁶⁷³ The *Camagüeyanos* defended a liberal state based

⁶⁷⁰ Carreras, 45.

⁶⁷¹ Ibid, 46.

⁶⁷² Academia de la Historia de Cuba, *Anales de la Academia de la Historia: publicación bimestre*, Vol. 4 (Imp. El Siglo XX, 1922), 242.

⁶⁷³ Ignacio Agramonte to the Citizens of the Cuban Republic on May 21st, 1870. Antonio Piralá, *Anales de la guerra de Cuba*, Vol. 1 (Editorial de Felipe Rojas Gonzalez, 1895), 863 FN. “Hasta donde nos llevarán

on laws rather than the rule of a tyrant, which is what they considered Céspedes to be. Céspedes' Secretary, Carlos Pérez, learned about the plot, and wrote in his diary on July 4th, 1870: “[they] conspire a lot against him, but he keeps his path having always as the main goal of all his actions the salvation of the country.”⁶⁷⁴ Just few days later, on July 14th, 1870, Pérez wrote another entry: “the *Camagüeyanos* continue in an anti-Céspedes attitude; all his acts are ... ridiculed to the point of defamation.”⁶⁷⁵

The situation in western Cuba was also difficult for the separatist cause as the region remained under Spanish control. The lack of participation in the revolution from Havana and other cities did not go unnoticed by the members of the Cuban Republic in Arms. On August 25th, 1871, Carlos Manuel de Céspedes sent a letter to the President of the Revolutionary Board in Havana: “Our revolution is going on three years; three years, and the West still remains an impassive spectator, full of indifference, to the fight of its brothers for the freedom of all those of the same territory.”⁶⁷⁶ In Céspedes' views, Havana and the Western territories remained inactive during the war, not even recognizing the revolutionary legislation. In this regard, he expressed: “... it is necessary that, like those from other regions, the inhabitants of Havana contribute with funds to the revolutionary

las contemplaciones y falta de energía de la Cámara de Representantes? Hasta cuando aparecerá impasible ante tantos abusos? Esperará que Céspedes y sus secuaces arruinen al país para proceder con energía?”

⁶⁷⁴ Campaign diary of Carlos Pérez on July 4th, 1870, in Carreras, 49: “Se conspira mucho contra este [Céspedes] pero él sigue su marcha teniendo siempre por objeto de todas sus aspiraciones la salvación de la patria.”

⁶⁷⁵ Dairy of Carlos Pérez on July 13th, 1870, in Carreras, 49: “Los camagüeyanos siguen en actitud anticespedista; todos los actos de este son [sic] ridiculizados hasta el extremo de llegar a la calumnia.”

⁶⁷⁶ Letter from Carlos Manuel de Céspedes to the President of the Revolutionary Board in Havana dated August 25th, 1871 in Carreras, 36. “Tres años va a cumplir nuestra revolución; tres años, y aún Occidente permanece impasible espectador, lleno de indiferencia, de la lucha de sus hermanos por la libertad de todos los del mismo territorio.”

movement and that they determine to sacrifice part of their patrimony ... and promote the mobilization of the slaves that, as per our Constitution, are free.”⁶⁷⁷ Indeed, western Cuba was reluctant to join the war, and liberals from that territory opted for a reformist rather than a revolutionary approach.

Despite the fact that Havana did not massively join the conspiracy, the city still suffered the effects of living in a country at war. The Corps of Spanish Volunteers committed injustices against the civil population. The most notorious of these actions was the prosecution and shooting of eight students of medicine of the University of Havana on November 27th, 1871.⁶⁷⁸ Spanish Volunteers randomly took eight first-year students of Medicine at the University of Havana from their classroom on the grounds of the profanation of a Spanish journalist’s tomb. One of these students, Anacleto Bermudez González, was the nephew of Anacleto Bermudez Pérez de Corcho, distinguished jurist and anti-Spanish creole who was Dean of the *Colegio de Abogados* of Havana in 1852.

Although there were approximately three hundred lawyers in the city at that time, the prosecution went through a summary process with no open objections. The students’ attorney was a Spanish military official, Federico Capdevila, who even broke his sword at the end of the trial upon realizing that his defense was useless. Peninsular lawyers formed the Council of War that judged the students, including the conservative *fiscal* Apolinar

⁶⁷⁷ Letter from Carlos Manuel de Cespedes to the President of the Revolutionary Board in Havana dated August 25th, 1871 in Carreras, 36. (...) fuerza es que como los de otros estados contribuyan con fondos para los trabajos revolucionarios y que se determinen a sacrificar parte de sus capitales (...) y en el levantamiento de las dotaciones de esclavos que, según nuestra Constitución, son libres.”

⁶⁷⁸ Fountain, Wiliam A., *27 de Noviembre de 1871: fusilamiento de ocho estudiantes de medicina*, Ediciones Universal, 2000.

Rato, who was vocal in this summary procedure.⁶⁷⁹ At least one lawyer publicly criticized the unfair procedure: *Habanero* José Francisco Cárdenas Gassie, who suffered prosecution in 1868 for conspiracy against Spain and remained incarcerated in Isla de Pinos until receiving a pardon in 1872.⁶⁸⁰ The eight students, however, were sentenced to death without any proof of wrongdoing. The silence from most Cuban lawyers throughout this process proved the unwillingness of most members of the legal profession to confront Spanish colonialism. During those days, rather than declining the number of lawyers started increasing in Western Cuba once more.

The position of *habanero*-lawyers regarding independence movements could be contrasted with that of other legal professionals across Spanish America. As Victor Uribe establishes, while lawyers from New Granada and Río de la Plata actively involved themselves in their emancipatory processes, their colleagues from Peru and Mexico remained skeptical and did not engage at the same level with the revolutionary movements.⁶⁸¹ While lawyers in the Central and Eastern regions of Cuba mobilized, as those in New Granada and Río de la Plata did, those residing in Santiago de Cuba and the Western territories remained mostly uninvolved, as did their Mexican and Peruvian colleagues. This was not the first time that lawyers from Havana mirrored the interests and behavior of legal professionals in Mexico. Something similar had occurred in 1812, when

⁶⁷⁹ Roldan de Montaud, 39.

⁶⁸⁰ AHN ULTRAMAR, 4350, Exp. 10. This file contains the prosecution of Jose de Cardenas Gassie for political reasons, including his sanction to be sent to the Isla de Pinos. The file comprises his requests for pardon, finally granted in 1872. Also see Morales y Morales, 495.

⁶⁸¹ Victor Uribe-Urán, “Distintos tonos de gris: Los juristas y las independencias de Iberoamérica, 1808-1821,” in Santiago Muñoz Machado, ed., *Historia de la abogacía española* (Cizur Menor, Navarra: Editorial Arazandi, 2015), vol. 1, p. 897-937.

Habaneros requested the Spanish Cortes authorize the opening of a *Colegio de Abogados* based on the statutes of the *Colegio* of Mexico City of 1808.⁶⁸² The lack of incorporation of Western Cuba to the revolutionary cause, along with other problems within the revolutionary ranks started undermining the independence movement.

In 1873 the revolution experienced a dramatic shift. After numerous setbacks during which the Cuban Army started losing control of more and more liberated territories, the operations of the Spanish troops increased anew in those areas. On May 11th, 1873, a Spanish squad approached Jimaguayú, only 32 kilometers from the city of Puerto Príncipe, and Ignacio Agramonte went to their encounter, dying in an ambush while preparing the operations to repeal the *peninsulares*.⁶⁸³ Agramonte's death meant the loss of one of the most important leaders of the revolution and the caudillo of Puerto Príncipe. The representatives of this territory chose Salvador Cisneros Betancourt as their new local leader. Cisneros, however, did not command the support and respect members of the revolutionary army bestowed on Agramonte, and did not provide to the government the stability that Agramonte had preserved.⁶⁸⁴

Not only Agramonte but also other lawyers within the professional and social networks of Céspedes had died or abandoned Cuba by 1873. Pedro Figueredo, the leader of the movement in Bayamo, was captured on August 12th, and executed in Santiago on August

⁶⁸² ANC Fondo Gobierno Superior Civil, Legajo 862, Orden 29197, Colegio de Abogados, Expediente promovido por varios abogados solicitando establecer un colegio; and ANC Fondo Gobierno Superior Civil, Legajo 47, Orden 28, Colegio de Abogados, Carta pidiendo informe sobre el establecimiento de un Colegio de Abogados en La Habana basados en los mismos estatutos que el de México.

⁶⁸³ For further information on this event, and the death of Agramonte, See Raúl Izquierdo Canosa, *Ignacio Agramonte y el combate de Jimaguayú*, Editorial Ciencias Sociales, 2007.

⁶⁸⁴ Herminio Portel-Vilá, *Céspedes, el padre de la patria cubana* (Espasa-Calpe, 1931), 244.

17th, 1870.⁶⁸⁵ Jorge Carlos Milanés resigned as member of the House in 1872, and moved to Costa Rica.⁶⁸⁶ Esteban Estrada was captured in 1869 and, after a period in jail, was sent into exile to Spain.⁶⁸⁷ Ramón Céspedes was sent to New York and later Costa Rica as ambassador of the Cuban Republic.⁶⁸⁸ Rafael Morales González received a gunshot in the face in 1871, which caused his death ten months later, on September 15th, 1872.⁶⁸⁹ Francisco Maceo Osorio suffered from severe health issues that forced him to resign his posts in 1873, finally passing away on November 6th of that year.⁶⁹⁰ Therefore, support for Céspedes had greatly declined and the members of the House started planning his removal.

On September 25th, 1873, Céspedes wrote to his wife, Ana Quesada, that the House had been plotting against him for several days: “For days, the House is announcing a meeting to crash with me, and maybe dismiss me.”⁶⁹¹ Yet, his legalistic mindset surfaced when he stated: “either if they decide to dismiss me, or I offer my resignation to avoid harm, as long as this does not damage my honor or the destiny of the country, (...) I am

⁶⁸⁵ Chao, Raul Eduardo, *Baragua: Insurgents and exiles in Cuba and New York during the Ten Year War on independence (1868 – 1878)*, (Dupont Circle Editorial, 2009), 372.

⁶⁸⁶ AHN ULTRAMAR 4937, Expediente 3. In this file, Milanés is mentioned as one of the leaders of the revolutionary government, as well as the positions he held.

⁶⁸⁷ AHN ULTRAMAR 4377, Expediente 65. This file included the petition of Estrada to be sent to Spain, as a modification to the sanction of jail that he has received.

⁶⁸⁸ John Austin Stevens, and others, *Obituary of Francisco Vicente Aguilera*, at *The Magazine of American History with Notes and Queries*, Vol. 1 (A. S. Barnes, 1877), 272.

⁶⁸⁹ Morales y Morales, 290.

⁶⁹⁰ Jorge Quintana, *Cronología biobibliográfica de José Martí* (Impresora Delta, 1964), 55.

⁶⁹¹ Letter from Carlos Manuel de Céspedes to his wife dated September 25th, 1873, in Carreras, 51: “Desde hace días está anunciándose la reunión de la Cámara para chocar conmigo y llegar tal vez hasta la deposición.”

determined to act according to the law.”⁶⁹² Eight members of the House finally met on September 27th, 1873, in Bijagual de Jiaguani.⁶⁹³ One of the members of the House, Ramón Pérez Trujillo, lawyer and former Vocal of the Martial Court of Sibanicú, delivered the accusatory argument against Céspedes. He insisted on the excesses that Céspedes had committed during his presidency. Luis Victoriano Betancourt, also a lawyer and former President of the same Martial Court, seconded this motion, immediately followed by the rest of the present members.⁶⁹⁴ Salvador Cisneros Betancourt abstained, but the rest had already supported Pérez Trujillo, and his vote was not necessary at that time. Ramón Pérez and Luis Victoriano Betancourt used their legal skills to remove Céspedes in the context of the revolutionary political system. Céspedes’ followers, especially those in exile either in New York or Central America, criticized the decision on the grounds that their leader had given his properties and career up for Cuban independence.⁶⁹⁵ Yet, the decision had been made.

After exchanging official communications with the House, Céspedes abandoned his position and retired to a rustic cabin in San Lorenzo, in Eastern Cuba. Although Cisneros

⁶⁹² Letter from Carlos Manuel de Céspedes to his wife dated September 25th, 1873, in Carreras, 52: “sea que se lancen a deponerme, sea que yo presente mi renuncia para evitar vejamen, cuando con ese acto no comprometa mi honor y los destinos de la patria, estoy resuelto a no salir de la legalidad.”

⁶⁹³ The members of the House at this time were Tomás Estrada Palma, Jesús Rodríguez Aguilera, Juan Bautista Spotorno, Luis Victoriano Betancourt, Ramón Pérez Trujillo, Marcos García, Fernando Fornaris, and Eduardo Machado.

⁶⁹⁴ Raúl Eduardo Chao, *Baragua: Insurgents and exiles in Cuba and New York during the Ten Year War on independence (1868 – 1878)*, (Dupont Circle Editorial, 2009), 280.

⁶⁹⁵ Mario Riera Hernández, *Cuba Libre, 1895 – 1958* (Colonial Press of Miami, 1968), 10. “La infamante conducta de Pérez Trujillo, ampárala la tropa de Calixto García y en votación deponente los congresistas montunos (...) y el proponente de esa injusta resolución.” The same book concludes this paragraph with the note that Pérez Trujillo found a tragic death in 1900 when he threw himself through the balcony of his house in Havana, in Concordia Street.

appealed to the House for Céspedes' protection and integrity, its members did not provide a safe conduit for the former President to relocate.⁶⁹⁶ For the next months, Céspedes dedicated himself to teaching the children of the area, while waiting for the authorization of the Cuban government for a mission out of the island. While living in this area, Céspedes had a surprising encounter with a Spanish platoon on February 27th, 1874 and, after engaging in outnumbered combat, Céspedes was wounded and finally killed.⁶⁹⁷

Salvador Cisneros Betancourt, the President of the House of Representatives, became the new President upon Céspedes' removal in 1873. Many Eastern Cuban soldiers, however, still supported the former President, and neither backed his removal nor supported the new presidency. One of the military leaders of Las Tunas, Coronel José Payito Sacramento León, for example, rejected the destitution of Céspedes and declared that he would only follow his local leader, Vicente García.⁶⁹⁸ Yet, the military leaders of Oriente, Calixto García from Holguín and Vicente García González in Las Tunas, initially followed Cisneros and the leadership of the *Camagüeyanos*. This balance of power lasted until 1874, when Spanish forces captured Calixto García, and Vicente García González became the head of the Eastern Cuban Army. A rebel spirit and principled liberal, Vicente García eventually started questioning the revolutionary government.

By 1874, the fight was stagnant in the Cuban East because Spain had built a fortified ditch from Júcaro to Moron in the boundaries between Las Villas and Puerto Príncipe,

⁶⁹⁶ Riera, 10.

⁶⁹⁷ Carreras, 54.

⁶⁹⁸ Yoel Cordovi Nuñez, *Máximo Gomez: Tras las huellas del Zanjón* (Editorial Oriente, Santiago de Cuba, 2005), 26.

leaving the Eastern half of Cuba isolated.⁶⁹⁹ The revolutionary government decided that it was time to expand the war to the West and ordered the military leaders Máximo Gomez and Antonio Maceo to proceed with the invasion toward Havana. This plan had three main goals: extend the war throughout the island; seize wealth from Western landowners that continued paying taxes and indirectly financing the war for Spain; and abolish slavery incorporating those men to the Cuban Army. A first problem the invasion encountered was racism. As Aline Helg explains, many white leaders opposed following Afro-Cuban Antonio Maceo's command based on "unspoken racist reasons."⁷⁰⁰ Additionally, localism and regionalism affected the Cuban troops and precluded the success of this plan. Some leaders only wanted to fight in their territories such as Vicente García in Las Tunas, and Ramón Leocadio Bonachea in Las Villas.⁷⁰¹ The leaders of the invasion could not advance beyond the region of Matanzas, and never got close to Havana.

Taking advantage of his military rank and popularity among troops, Vicente García opposed the government's order to fight out of his territory, Las Tunas, and headed a revolt in Lagunas de Varona, on April 26th, 1875.⁷⁰² García, a landowner with no legal background, still wrote foundational documents explanatory of the reasons behind sedition. In them, he displayed his liberal ideology by demanding democracy and political participation for the citizens of the Cuban Republic in Arms. García's manifesto begins:

⁶⁹⁹ Louis A. Pérez Jr., *Cuba: Between Reform and Revolution* (Oxford University Press, 1995), 124.

⁷⁰⁰ Aline Helg, *Our Rightful Share: the Afro-Cuban struggle for equality, 1886 – 1912*, (University of North Carolina Press, Chapel Hill and London, 1995), 48.

⁷⁰¹ H. Klepak, *Cuba's Military 1990–2005: Revolutionary Soldiers During Counter-Revolutionary Times* (Political Science Editorial, 2005), 26.

⁷⁰² José M. Hernández, *Cuba and the United States: Intervention and Militarism, 1868 – 1833* (University of Texas Press, 2013), 12.

“Those who subscribe [to this document], representing the people of Cuba, making use of their right of petition, elevate their voice to the national representation ... to demand the implementation of measures to save the country.”⁷⁰³ In his words, García showed his support to the Constitution of Guáimaro’s democratic and republican spirit, as well as his opposition to President Salvador Cisneros Betancourt. He criticized, in particular, Cisneros’s appointments. “The disgust, the discomfort of the patriots increases ... when the government appoints for certain positions citizens who had been separated from other analogous posts by the harm they had caused ... weakness and criminal condescension on one hand, threats and violent measures on the other. ... despotic with ones; without energy or action, powerless for others.”⁷⁰⁴ Hence, García deemed the current government void since it had not been elected, and called for elections to reinstate democracy in the revolutionary state.

The petition consisted of seven points. The first one was a request for the removal from office of Cisneros Betancourt, and the second one a call to constitute a transitional government formed by a President and four members: one per state: Oriente, Camagüey, Las Villas, and Occidente. What followed were articles organizing the structure and functioning of the new government including a House of Representatives composed of four deputies per state and a Senate made up of two representatives per state. This was probably

⁷⁰³ Exposition of Lagunas de Varona, see document in Pichardo, 389 – 390. “Los que suscriben, representando al pueblo de Cuba, haciendo hoy uso al derecho de petición, elevan su voz a la Representación Nacional, para (...) recabar el cumplimiento de disposiciones que salven al país (...).”

⁷⁰⁴ Exposition of Lagunas de Varona, see document in Pichardo, 391. “El disgusto, el malestar de los patriotas aumenta (...) cuando el gobierno nombra para determinados mandos a ciudadanos que habían sido separados de otros análogos por los malos que habían ocasionado (...) Debilidad, criminal condescendencia por una parte, amenazas, medidas violentas por la otra. (...) déspota con unos; sin energía, sin acción, sin poder para los otros.”

inspired by the structure of the American congress. The term of this transitional government, however, would be just four months, the time García regarded necessary to revise the constitution and establish a democratic system for the Cuban Republic in Arms.⁷⁰⁵ García formulated the respect for the laws as his driving principle. However, he was breaking the order and drafting a new charter based on his own will while threatening the current regime: “We will not finalize this document without protesting a thousand and one times our submission and respect to the laws of the country with which we shall continue to govern ourselves. As long as what we demand today has an effect, our attitude will be peaceful and legal, although we represent the will of the people.”⁷⁰⁶

Unable to provide unity, Cisneros Betancourt resigned in 1875. Juan Bautista Spotorno, a former student of medicine dedicated to trade in Trinidad, and member of the House of Representatives from Las Villas, became president in his stead. Spotorno, one of the major critics of Céspedes, tried to discourage any desertions at a moment when many Cubans considered they had lost the war. Spotorno decreed that any person proposing terms of peace without independence would be considered a traitor and immediately condemned to death.⁷⁰⁷ As an interim president, Spotorno called for presidential elections, in which Tomás Estrada Palma, a schoolteacher, would be elected on March 29th, 1876.⁷⁰⁸

⁷⁰⁵ Exposition of Lagunas de Varona, see document in Pichardo, 392.

⁷⁰⁶ Exposition of Lagunas de Varona, see document in Pichardo, 393. “No finalizaremos este escrito sin protestar una y mil veces nuestra sumision y respeto a las leyes del pais, con las cuales continuaremos regiéndonos. Mientras tenga efecto lo que hoy pedimos, nuestra actitud será pacífica y legal, aunque representamos la voluntad del pueblo.”

⁷⁰⁷ José Gregorio Cayuela Fernández, *Un siglo de España: centenario 1898-1998* (Universidad de Castilla - La Mancha, 1998), 349.

⁷⁰⁸ Leopoldo Fornés-Bonavia Dolz, *Cuba cronología cinco siglos de historia, política y cultura* (Editorial Verbum, 2003), 84. The vast majority of the historiography agrees that Tomás Estrada Palma was schoolteacher, especially during his time in the United States. See, for instance, Marcos Antonio Ramos, *La Cuba de Castro y después: entre la historia y la biografía* (Grupo Nelson, 2007), 54; and Raúl Eduardo Chao,

Those Who Did Not Fight: Working Lawyers in Times of War.

In Havana, most lawyers continued working and providing legal services, as in times of peace. Although many lawyers did not participate in the war, the *Guías de Forasteros* showed a decline in the number of legal professionals in this city. The *Guías* listed around 400 lawyers working in Havana in 1867, but they showed approximately 240 lawyers in 1873.⁷⁰⁹ During the five initial years of the revolution, around 150 lawyers seem to have abandoned their legal practice in Havana. It seems that criminal prosecution of liberal lawyers, even if it might not have been the only reason, was a major cause for lawyers disappearing from the *Guías*. During the last five years of the revolution, in contrast, the number of lawyers stopped declining and remained without major changes thereafter. In 1877 and 1878, for instance, the *Guías* still listed approximately 250 lawyers.⁷¹⁰

A large group that did not participate in the war were lawyers born in Spain. Supporters of the Spanish regime on the island, *peninsulares* created an informal conservative party, *el partido español*, having significant influence within the local and metropolitan governments.⁷¹¹ This group condemned the uprising of 1868 and, in 1869, marched through the streets of Havana protesting the soft colonial policies of Captain

Albúm de Cuba: cinco siglos de imágenes de importancia histórica de la Isla de Cuba (1492 – 1958), (Dupont Circle Editions, 2015), 168. Beatriz Bernal, however, affirms Estrada Palma earned a degree of Licenciado in Law at the University of Seville, although there is no evidence that he pursued a career in that field. On this regard, see Beatriz Bernal, 263.

⁷⁰⁹ *Guías de Forasteros de la Isla de Cuba*, years of 1867, 1873.

⁷¹⁰ *Guías de Forasteros de la Isla de Cuba*, years of 1877 and 1878.

⁷¹¹ Roldan de Montaud, 8 – 10. The author explains the influence of local merchants and entrepreneurs such as Manuel Calvo within the Spanish government during the 1860s.

General Domingo Dulce. Among others, Dulce had granted amnesty for those who wanted to abandon the war, along with freedom of speech, press and association for inhabitants of Cuba.⁷¹² This group of opponents included some notable lawyers established in Havana, who also held public positions such as the *Rector* of the University of Havana Francisco Durán Cuervo, the *Regidor* Francisco José de Olano, the Censor of Press Bonifacio Álvarez Mijares, and the Fiscal General of the island, Apolinar Rato.⁷¹³ Even the spokesperson of the *partido español* was a *peninsular* lawyer, Ramón María Araiztegui Zulueta, who served as the Secretary of Government of the island.⁷¹⁴ They actively participated of the anti-liberal activities of the *partido español*, which included the mobilization of 30,000 Voluntary Forces in 1869, and the creation of a network of Spanish casinos and social clubs across the island.⁷¹⁵ Thus, some lawyers were also instrumental in the defense of the Spanish regime, especially in Western Cuba.

Although the number of lawyers declined in some regions, such as Bayamo and Puerto Príncipe, because of their involvement in the war, in territories under the control of Spain the number of lawyers actually increased. In the region of Matanzas, for example, the *Guías* listed fifty-six lawyers at the beginning of the war in 1868, while seventy lawyers appeared

⁷¹² See Decreto de 24 de Febrero de 1869, in Roldan de Montaud, 13 - 14.

⁷¹³ For Durán Cuervo see AHN ULTRAMAR, 73, Exp.4, Personal file including his appointment as President of the University of Havana. For Olano see AHN ULTRAMAR, 4729, Exp. 10, file containing his award of Order Isabel la Católica after his services to the Crown. For Álvarez Mijares see in Roldan de Montaud on page 74 references to AHN ULTRAMAR 5013 Exp. 7. For Apolinar Rato see AHN ULTRAMAR, 4689, Exp. 6 about his opposition to the freedom of press. Also see Roldan de Montaud, 9 and 22.

⁷¹⁴ Roldan de Montaud, 98.

⁷¹⁵ See Roldan de Montaud, 26 – 27; and, 30 – 37.

in 1878.⁷¹⁶ Establishing themselves in a city in peace was a convenient solution for lawyers who wanted to remain detached from the war. Being a zone of peace, however, did not mean that they did not experience the war's impact. During this decade, *Matancero* lawyers were subject to political surveillance, some of them suspected of *infidencia* such as José Almagro Vega and José Sixto Bobadilla Grau in 1870.⁷¹⁷ Political control aside, lawyers increased their number in Matanzas, until turning this region into the second of Cuba with more legal professionals after Havana.

Other cities in Western Cuba also started showing larger clusters of lawyers during the war. Pinar del Río, previously unreported in the *Guías de Forasteros*, appeared in 1872 with a list of 6 lawyers.⁷¹⁸ By 1878, the number of lawyers in the city reached fifteen, doubling the amount the *Guías* initially had listed.⁷¹⁹ The reasons for the increases are unknown, but certainly this official publication can be construed as implying that the work of lawyers thrived and was more stable in the territories at peace and under Spanish control than in those at war and occupied by the rebels. Lawyers practicing in small towns close to Havana such as Jaruco, Mariel, Guanajay, Güines, Bejucal, San Cristóbal, and San Antonio also appeared in the *Guías* during the war. In major detail, the *Guías* continued including the lists of lawyers of villages neighboring Havana such as Guanabacoa and Santiago de

⁷¹⁶ *Guías de Forasteros de la Isla de Cuba*, years of 1876, 1877 and 1878. This included the cities of Limonar, Cárdenas, and Colón.

⁷¹⁷ AHN ULTRAMAR 4395, EXP 32, File of the Secretary of Justice for the investigation of the fiscal of the Audiencia in Havana José Almagro to confirm that he is not a disaffected to the Spanish regime in Cuba; ULTRAMAR, 4383, Exp. 13. Report of the consulate of Spain in New Orleans that confirm the proper behavior of Jose Sixto Bobadilla and authorize the return of his properties.

⁷¹⁸ *Guia de Forasteros de la Isla de Cuba*, 1872.

⁷¹⁹ *Guia de Forasteros de la Isla de Cuba*, 1878.

las Vegas, while mentioning separately lawyers residing in Regla and Marianao, which had been ignored until then because of their proximity to the capital.

Some lawyers lived in territories that revolted, although they did not participate in the uprisings. In Puerto Príncipe, for example, at least twelve lawyers continued practicing during the war. Some of these jurists were liberals who adopted a moderated opposition to Spanish colonialism. That was the case of José Ramón Betancourt, a lawyer from Puerto Príncipe who was also a poet and a journalist. Upon his graduation from the University of Havana in the 1840s, he returned to Puerto Príncipe and started publishing *La Gaceta de Puerto Príncipe*, a liberal newspaper. During the prosecution of *infidentes* of 1852, Betancourt was sent into exile to Spain.⁷²⁰ Upon his return to Cuba in 1860, Betancourt did not join the conspiracies, and rather dedicated himself to promoting liberal transformations within the Spanish government. Thus, Betancourt was elected as a Cuban representative to the Spanish Cortes in 1870 and, from that position, promoted a strong campaign for the abolition of slavery on the island.⁷²¹

As a known liberal, José Ramón Betancourt did not escape the surveillance and political control common at the time, as the Spanish authorities sent him to jail and confiscated his properties after the uprising. Upon his release for lack of evidence of his involvement with the conspiracy, colonial authorities alleged having confused him with an

⁷²⁰ AHN ULTRAMAR, 4645, Exp. 17 Captain General of Cuba sent into exile to Spain because of their political problems to José Joaquín Rivera, Manuel de Jesús Arango, Francisco de Quesada y Guerra, Agustín Miranda, José Ramón y Fernando de Betancourt, Salvador Cisneros and Serapio Recio Agramonte, *vecinos* of Puerto Príncipe, and José María Valdés y Melchor Silva, *vecinos* of Nuevitas.

⁷²¹ Christopher Schmidt-Nowara, *Empire and antislavery: Spain, Cuba and Puerto Rico, 1833 – 1874* (University of Pittsburgh Press, 1999), 156.

infidente of a similar name, Ramón Betancourt.⁷²² As other lawyers from Puerto Príncipe, even if Betancourt had not directly participated of the plot, he was interconnected with the rest of the conspirators through the familiar and professional networks of the region. His brother Fernando Betancourt, for example, participated of the uprising of Las Clavellinas, being apprehended and prosecuted until José Ramón became his lawyer, pleading his absolution in 1873.⁷²³ The effects of the war in Puerto Príncipe reached even those who had not engaged directly in military actions but formed part of the conspirators' same circles.

Pursuing Abolition and Racial Integration During the War.

During the Ten Years War, liberal leaders pushed the legal foundations for the abolition of slavery. In 1868, many liberal plantation owners freed their slaves during the uprisings, with the condition that they should join the revolutionary army. In 1869, *mambises* lawyers established the principle of equality in the Constitution of Guáimaro. Its article 24 reads: “All citizens of the Republic of Cuba are entirely free,” while article 26 remarks: “the Republic does not recognize dignities, special honors or privileges.”⁷²⁴ The Law of Civil Marriage of the Cuban Republic in Arms did not include any distinctions of race and all men were considered equal and free. The limited enforcement of the revolutionary laws,

⁷²² AHN ULTRAMAR, 4387, Exp. 27. D. Ernesto Betancourt, como apoderado de su hermano D. José Ramón, solicita el desembargo de los bienes que le fueron embargados al ser confundido con el infidente D. Ramón Betancourt.

⁷²³ AHN ULTRAMAR, 4769, Exp. 28. José Ramón Betancourt, solicita en nombre de su hermano, Fernando Betancourt, deportado político por medida gubernativa, que se autorice a aquel para volver a la isla de Cuba. Concedido por Orden del Poder Ejecutivo de la República en 24 de junio de 1873. Morales y Morales, 90-91.

⁷²⁴ Colectivo de Autores, *Constituciones fundamentales de Cuba* (Red Ediciones SL, Spain, 2013), 9.

however, did not abolish slavery across the whole of Cuba, rather this process continued as a discussion in the Spanish Cortes.

The first legislative attempt to abolish slavery in Cuba was the Moret Law. In 1869, the liberal Manuel Becerra became the *Ministro de Ultramar* under the Spanish Revolution. Becerra believed that small concessions would allow Spain to preserve the possession of Cuba. Becerra, hence, decided to enact a law that could be a first step in the process of emancipation of the slavery on the island while appeasing creole animosity toward the Spanish government. Unfortunately, Becerra resigned from his position before his project materialized. His successor, Segismundo Moret y Prendergast, was the Vice-President of the Spanish Abolitionist Society, and continued with Becerra's plan.⁷²⁵ The Spanish Cortes, however, was not completely in agreement to abolish slavery, while they were unanimously afraid of losing Cuba. Coincidentally, Captain General Antonio Caballero Fernández de Rodas, after winning some battles during the Ten Years War in 1869, prematurely proclaimed Spanish victory. Moret and his followers, thus, promoted the passage of the abolitionist bill in Madrid arguing that it would preserve the peace on the island. As a result, Spain promulgated the Moret Law in 1870.⁷²⁶

The original version of Moret's bill had different revisions until its final approval. It emancipated four different groups of slaves: free born slaves or *vientres libres*, all slaves owned by the Spanish government, those who fought in the Spanish Army, and those slaves

⁷²⁵ Corwin, Arthur F., *Spain and the Abolition of Slavery in Cuba, 1817 – 1886*, Latin American Monographs No. 9, (New York, 1967), 243.

⁷²⁶ *Ibid*, 245.

who were older than sixty years of age.⁷²⁷ The law also contemplated the transformation of slavery into a patronage system to last from ten to fifteen years where freed slaves would receive a salary. This legislation, however, preserved slavery and did not modify the basis of forced labor on the island. For that reason, this legislation did not have the immediate social and economic effects that abolitionists expected.⁷²⁸ Yet, the Moret Law triggered the emancipation process and, by 1875, a total of 50,046 slaves had been freed since its promulgation.⁷²⁹

Acknowledging the moderated impact of the Moret Law, abolitionists pushed for a more radical agenda. The new Vice President of the Spanish Abolitionist Society, the creole lawyer and depute to the Spanish Cortes, Rafael María de Labra, sent petitions to request modifications to the law between 1872 and 1873.⁷³⁰ Labra was born in Havana in 1840, and moved with his family to Spain as a child, nevertheless he remained concerned about Cuba and the implementation of liberal reforms on the island.⁷³¹ Labra's requests included the opening of a filial of the Spanish Abolitionist Society in Havana, which Spain granted on September 15th, 1873.⁷³² The abolitionist movement gained strength under the liberal government of Emilio Castelar between 1873 and 1874. Castelar supported a

⁷²⁷ See Jim Powell, *Greatest Emancipation: How the West abolished slavery*, (Palgrave MacMillan, New York, 2008), 155.

⁷²⁸ Corwin, 253.

⁷²⁹ *Ibid*, 294.

⁷³⁰ AHN ULTRAMAR 4759, Exp. 15. File containing the petitions of Rafael María de Labra to the Spanish Cortes with his requests to revise legislation regarding abolition.

⁷³¹ Beatriz Bernal, *Cuba: Juristas de la Independencia*, in José María Pérez Collados and Samuel Rodríguez Barbosa, editors, *Juristas de la Independencia* (Marcial Pons, Madrid, 2012), 263.

⁷³² AHN ULTRAMAR 4736, Exp. 11, File for the creation of an abolitionist society in Havana in 1873.

legislative proposition from the Spanish Abolitionist Society in Madrid to boost the emancipation process.⁷³³ The restoration of Alfonso XII to the Crown of Spain in 1875, however, prevented this bill from finally passing, but the abolitionist ideas survived and continued after the war.

The military conflicts around the reinstallation of the Bourbon Monarchy in Madrid brought to Cuba the first Afro-descendant with a law degree. Rodolfo Fernández de Trava y Blanco de Lagardere was born in Barcelona in 1854. He was the son of Rosa Blanco, daughter of the slave-trader Pedro Blanco, from Málaga, with a *Mandinga* African princess.⁷³⁴ After spending some time in Cuba, the *mestiza* Rosa could not find a place within the elitist creole society and returned to Spain where her father gave her in marriage to his nephew, Buenaventura Fernández Illescas, in Barcelona. From this marriage were born two children: Rodolfo and his brother.⁷³⁵ Lagardere graduated from the School of Law in Madrid; but having engaged in the conspiracies to reinstate the Bourbon Monarchy in Spain, he was sent to Cuba in the 1870s.⁷³⁶

Upon his arrival to the island, Lagardere worked as a writer and lived in various cities including Santiago de las Vegas, San Antonio de los Baños, and Santiago de Cuba. Lagardere's political views identified with those of the *peninsulares* that lived on the island promoting the preservation of Cuba as a Spanish possession. For that reason, when

⁷³³ AHN ULTRAMAR 4759, Exp. 17. Summary of the proposal of abolitionist law that the Spanish Abolitionist Society presented to the Cortes in 1872.

⁷³⁴ María del Carmen Barcia Zequeira, *Casinos españoles: de color?* Revista SEMATA, Ciencias Sociais e Humanidades, Vol. 24 (Universidade de Santiago de Compostela, 2012), p. 351 – 374, 362.

⁷³⁵ *Ibid*, 362.

⁷³⁶ *Ibid*, 362.

Lagardere was incarcerated years later, he was released upon the intervention of *peninsulares* Antonio Batanero and the Conde de Casa Moré, future heads of the Spanish Party on the island.⁷³⁷ After the end of the war, in 1878, Lagardere actively engaged in the political life of the island as advocate of abolition and racial integration, but there is no record that he had worked as an attorney at the same time.

Preserving the Legal Profession

Besides the lawyers that abandoned their practices after the uprising, the number of students of law at the University of Havana also diminished abruptly. From 243 students enrolled in 1868, to 131 in 1869, and the reasons for this reduction could be associated to the war.⁷³⁸ Some students abandoned their studies of law to join the revolutionary cause, such as the Puerto Rican Juan Rius Rivera, who left his studies of law at the Universidad Central in Madrid and joined the Cuban Army.⁷³⁹ Others students were probably discouraged at the prospect of pursuing their studies in a country at war, and particularly in a career in which the main outcome was to become a member of the colonial bureaucracy. To avoid the danger of studying in a country at war, and preserving the tradition of studying abroad when it was economically possible, many young members of

⁷³⁷ Barcia, 363.

⁷³⁸ *Memoria acerca del estado de la enseñanza de la Universidad de la Habana en 1872 and 1873*, Imprenta del Gobierno de la Capitanía General, 1873.

⁷³⁹ Francisco Moscoso, *Clases, Revolución y Libertad: Estudios Sobre el Grito de Lares de 1868* (Editorial Edil, 2006), 54.

wealthy families enrolled at the School of Law of the Universidad Central in Madrid in 1869.⁷⁴⁰

The reduction of the number of students at the University of Havana coincided with an educational reform that the liberals had initiated in Spain. This reform contained three elements: secularization, freedom of teaching, and eradicate illiteracy.⁷⁴¹ Hence, lack of incorporation to the universities implied a setback with Spanish official policy, and new legislation was enforced to facilitate the enrollment of students. Two decrees modified the Royal Order dated January 8th, 1838 that waived tuition payment for poor students. On September 19th, 1872, the Spanish government extended the waiver to graduation rights; and, on October 18th, 1872, increased by four the number of students that could receive the benefit of attending the School of Law.⁷⁴² This reform also waived tuitions for students of the Schools of Philosophy, Medicine and Pharmacy, and stimulated the enrollment of poor students to the Cuban University. Many young creoles with aspirations to pursue a career in the legal field benefitted from this reform between 1873 and 1878.⁷⁴³ The most common arguments that supported their applications were extreme familial poverty, orphanhood,

⁷⁴⁰ Those were the cases of Ramón Antonio Fernández García see AHN UNIVERSIDADES 3978 Exp. 3, Gabriel del Corral Fernández see AHN UNIVERSIDADES 3848 Exp. 14, Juan Calderón Rodríguez see AHN UNIVERSIDADES 3740 Exp. 15, José Bordoy Suárez see AHN UNIVERSIDADES 3708 Exp. 7, Luis Ramón de Betancourt López see AHN UNIVERSIDADES 3694 Exp. 10, and Francisco de Paula Arce Bernal see AHN UNIVERSIDADES 3602 Exp. 7.

⁷⁴¹ Diego Quintana de Uña, *La política educativa de España entre 1850 y 1939*, Revista de Educación, Año XXIII, No. 240, Sept – Oct 1875, p. 30 – 40.

⁷⁴² Teodoro Gómez Herrero, *Diccionario-guía legislativo español*, Vol. 4 (Establecimiento tipográfico de R. Fe, 1903) 444.

⁷⁴³ Some of the applications were Ricardo Diago Ayesterán, see AHN ULTRAMAR 102, Exp. 24; Juan Benitez Lamar, see AHN ULTRAMAR 103, Exp. 21; José León Pérez Trujillo, see AHN ULTRAMAR 102, Exp. 4; José Cirilo Pouble Allende, see AHN ULTRAMAR 106, Exp. 2; Leoncio Rodríguez Rodríguez, see AHN ULTRAMAR 102, Exp. 5.

and lack of resources to support themselves during the studies. The war, therefore, provided the context to grant access to the university to more students of modest origins, thus breaking with the traditional limitations of access to the School of Law exclusively to members of wealthy families and created social mobility in a transforming society. One of these students was Evelio Rodríguez Lendián, future scholar and Dean of the School of Philosophy of the University of Havana, and member of the Board of the *Colegio de Abogados*.⁷⁴⁴

Yet, the access to insolvent students through scholarship was not the only reform that the Cuban University experienced during the war. As a possible supplement to the ongoing political surveillance, the Spanish government ordered a reform of the plan of studies at the University of Havana, which finally entered into effect on October 10th, 1871. To be sure, it did not incorporate significant differences from the previous plan. Nevertheless, it tried to eliminate discrepancies between Spanish and Cuban universities. At the same time, probably with the intention to centralize the studies of law, the new plan suppressed the Doctorate in Law forcing students to go to Spain to obtain this degree. The new program reestablished the studies of *Notariado* that had been temporarily suspended after 1868, apparently thus enhancing the training and production of *notaries*. This was in sharp contrast to the goal of reducing the number of lawyers.⁷⁴⁵

⁷⁴⁴ AHN ULTRAMAR, 104 Exp. 10. Application for scholarship of Evelio And Celio Rodríguez Lendián.

⁷⁴⁵ *Catálogo General de la Universidad de La Habana y Memoria, Universidad de la Habana, Memoria Anuario correspondiente al curso académico 1903-1904*, M. Ruiz y Co. Imprenta y Papelería Obispo 18 y 20, Habana, 1905, 14; Soler y Castelló, Federico, *Diccionario de la legislación hipotecaria y notarial de España y ultramar, concordada con la del impuesto de derechos reales y trasmisión de bienes con las disposiciones del derecho civil, mercantil e internacional referentes a las materias que la misma comprende*, Volumen II, Publisher G. Tejado y Ca., Madrid, Spain, 1884, 432.

The Faculty members of the School of Law at the University of Havana also reflected the circumstances of a country at war. Dean José Diego de la Torre, who had been accused of being a revolutionary for his liberal and separatist ideas, passed away in 1869.⁷⁴⁶ The new Dean was chosen based on seniority, and the position corresponded to the *peninsular* official Francisco Campos López. During the last decades, Campos held the position of Vicepresident of the University, eventually acting as President, and had taught *Derecho Patrio* until 1863, and History and Elements of the Spanish Law after that reform. Throughout his tenure, Campos had proven his conservative political stance, as had most of the faculty members, which remained mostly unchanged after 1871. Yet, there were new Chairs incorporated after the reform.

The reform brought the creation of new Chairs. The Chair of Philosophy of the Law and International Law disappeared, and Francisco Javier Urrutia assumed the new Writing Legal Documents, specialized for those pursuing *Notariado*.⁷⁴⁷ The founder of the Chair of Philosophy of the Law José Manuel Mestre had resigned in 1866, and ultimately left for New York to join the Revolutionary Board working in that city.⁷⁴⁸ Public and Administrative Law merged with Political Economy, and the young creole, educated in Madrid, Francisco Campos Riverol started teaching this amalgamated class.⁷⁴⁹ Additionally, young creole Leopoldo Berriel received a course on Spanish Codification,

⁷⁴⁶ AHN ULTRAMAR 264, Exp. 15. File of the appointment of Francisco Campos as Dean of the School of Law that mentions the death of Diego José de la Torre.

⁷⁴⁷ AHN ULTRAMAR 168, Exp. 34. Professional file of Francisco Javier Urrutia.

⁷⁴⁸ AHN ULTRAMAR 73, Exp. 8. Resignation to Chair of José Manuel Mestre; and Willis Fletcher Johnson, *The History of Cuba*, Vol. 3 (B.F. Buch and Cia, 1920), 247.

⁷⁴⁹ AHN UNIVERSIDADES 3755, Exp. 2. Academic file of Francisco Campos Riverol, Universidad Central, Madrid, 1862 – 63.

while Ecclesiastical Discipline absorbed History of the Church under José Ramírez Ovando.⁷⁵⁰ In this reform, new legal tendencies gained preference over tradition and ecclesiastical themes, and young creole faculty members started teaching sensible legal matters such as political and administrative law, and political economy. This proves that, although the country was at war, legal professionals were concerned with preserving the ethical practice of the law and safeguarding the best possible legal training for the future members of the profession.

Among the new faculty members, young creoles were highlighted. Leopoldo Berriel was born in Güines on September 14th, 1843, and graduated from the University of Havana in 1868. His dissertation, titled “Influence of Christianity on Roman Criminal Law,” held the liberal approach that Roman Law was a foundational source rather than current legislation.⁷⁵¹ Berriel’s thesis sheds light on the contradictions of Cuban liberalism. On the one hand, he rejected authoritarianism and defended primacy of the individuals and their particularities above the idea of collectivity, which is a basic tenant of liberalism. On the other side, Berriel seems to regret the intervention of tyrants as the reason that prevented the broader influence of Christianity over Roman Law.⁷⁵² This idea contradicted the secular

⁷⁵⁰ AHN ULTRAMAR 147, Exp. 17 File containing the appointment of Leopoldo Berriel as Chair of Discipline of the Church; AHN ULTRAMAR 264, Exp. 17. Professional file of Chair Leopoldo Berriel; and AHN ULTRAMAR 61, Exp. 8. Professional file of José Ramírez Ovando.

⁷⁵¹ BNC Leopoldo Victor Berriel Fernández, *Influencia del Cristianismo en el Derecho Penal de los Romanos*, Habana, Imprenta La Antilla, 1868.

⁷⁵² Berriel, 31. “Hemos también indicado los motivos que a nuestro entender contribuyeron a que quedaran en parte infructíferos los gérmenes de justicia que derramaba la idea evangélica, designando en primer término el desenfrenado despotismo de los Césares, buitres insaciables del imperio, y la absorción, aun existente, del individualismo por el socialismo, contra la que, si bien la reprobó y maldijo el inspirado Apóstol del amor y la igualdad, no fue bastante por entonces su doctrina, que encontraba una remora en la tiranía; porque, como ya se ha dicho, donde el hombre no tiene una personalidad independiente, donde la sociedad es un ídolo al que se sacrifican víctimas propiciatorias, si el derecho criminal, por causas que lo impulsen, da paso hacia el progreso y camina hacia la ciencia, la ciencia sin embargo no se forma.”

commitment of liberalism, while it also exemplified the existence of a Cuban society predominantly Catholic. In 1869, after the resignation of Clemente Calero, Berriel joined the faculty of this University to work in the vacant Chair of Ecclesiastical Discipline.⁷⁵³ The creation of the course of Spanish Codes in 1871, however, allowed him the possibility to pursue a career as Professor of Civil Law and one of the most important jurists of the second half of Cuban nineteenth century.⁷⁵⁴

Berriel's course of Spanish codification referred to one of the most important legal reforms of the nineteenth century. Codification was a modern legislative expression that, although rooted in the ancient and medieval past of Europe, expressed the supremacy and authority of the law in modern times. The codes contained in ordained, clear and coherent fashion the complete rules pertaining to general legal areas such as Civil, Criminal, and Commercial Law.⁷⁵⁵ The codes embodied the modern political and legal thinking of the nineteenth century; they brought a new form to the law. These laws systematized regulations on certain legal fields, materializing the ideal of stability and permanence of the law over time. Codes broke apart with the technique of compilations typical to the Ancien Regime, which implied the survival of non-derogated previous laws, and set a *tabula rasa* with the past. Overall, codes incarnated modernity in the legal field.⁷⁵⁶

⁷⁵³ AHN ULTRAMAR 147, Exp. 17, Letter dated June 10th, 1869 appointing Berriel after the resignation of Calero.

⁷⁵⁴ ANC Libro de Registros del *Colegio de Abogados* de la Habana; and AHN ULTRAMAR 264 Exp. 17 about the establishment of the Chair of Civil Law of Leopoldo Berriel in the University of Havana.

⁷⁵⁵ Rogelio Pérez Perdomo and John Henry Merryman, *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America*, Third Edition (Stanford University Press, 2007), 30.

⁷⁵⁶ For the analysis of modern codification, its ideological foundations and principles, see Giovanni Tarello, *Cultura Jurídica y Política del Derecho* (Fondo de Cultura Económica, México, 1995), 39 – 56.

Another young creole of this generation was José María Carbonell. A native of Matanzas in 1840, Carbonell graduated from the School of Law in 1864, and established himself as a lawyer in Havana in 1865.⁷⁵⁷ In 1870, Carbonell became a faculty member of the School of Law in Havana taking over the Chair of Legal Procedure and Forensic Practice.⁷⁵⁸ After the retirement of Antonio Zambrana in 1862, mostly supernumeraries taught this course, until Carbonell provided stability to the Chair for various decades.⁷⁵⁹ Also a moderate liberal, Carbonell opposed Spanish control over the legal training during the war, and tried to develop the studies of law in the Cuban capital.

With the closing of the *Academias de Jurisprudencia* and the *Colegios de Abogados*, and the failure of professional associations in Havana, there were truly no entities in charge of fostering an ethical legal practice except the University of Havana. For that reason, Carbonell Ruíz, along with the lawyer Augusto Martínez Ayala, requested from the *Ministerio de Ultramar* authorization to reopen the *Academia* of Havana in 1874.⁷⁶⁰ Martínez Ayala had recently graduated from the School of Law in Madrid, and returned to Cuba inspired by the liberal ideas that prevailed on the Iberian Peninsula.⁷⁶¹ These Cuban

⁷⁵⁷ ANC Libro de Registros del *Colegio de Abogados* de la Habana.

⁷⁵⁸ AHN ULTRAMAR 264 Exp. 19, Personal file of Chair of Civil, Criminal, Canon and Administrative Law Procedure Carbonell Ruiz.

⁷⁵⁹ Between 1863 and 1870, supernumeraries and interim scholars José María Céspedes, Antonio González de Mendoza, Juan Bautista Hernández Barreiro, and Antonio Prudencio López taught the course of Legal Procedure. See *Guías de Forasteros*, 1863 – 1870.

⁷⁶⁰ AHN ULTRAMAR 164 Exp. 22. Opening of the Academy of Legislation of Havana. Letter dated March 1st, 1874 from Drs. Carbonell and Ayala requesting authorization from the Ministerio de Ultramar to open an academy of legislation in Havana. This file contains the request made by Cuban lawyers to Spain to open the Academy in Havana, including the documentation processed by the authorities and the final grant issued by the Spanish government authorizing its creation.

⁷⁶¹ AHN UNIVERSIDADES 4827, Exp. 13, Academic file of Augusto Martínez Ayala at the School of Law of the Universidad Central in Madrid.

lawyers explained to the Spanish *Negociado de Fomento* the need of this institution to complete the required legal training of a lawyer on the island. In the request, Carbonell and Martínez Ayala asserted their loyalty to the colonial regime and Spain. The *Ministerio de Ultramar* finally approved the reopening of the *Academia* in 1874, under condition that the colonial government should review its publications and oversee its academic activities. The political and military conflicts in the island, however, conspired against this institution, which closed shortly thereafter under suspicion that it would turn into a center of assembly and hotbed of conspiracies.⁷⁶²

As the weaknesses of the rebel Cuban army started showing, and Spain secured its military position and control over the island, other local requests received approval in the metropolis. In 1876, attorney José Poo Álvarez requested authorization to open the *Colegio San Ramón*, an institute of *Segunda Enseñanza*, in Havana. Spain granted this request, and the institution opened shortly after.⁷⁶³ *Colegio San Ramón*, however, did not focus on legal topics. Thus, this concession did not meet the preexisting necessity of centers specialized in legal training, but in any case it symbolized more flexibility from Spain in the opening of academic centers toward the end of the war. These requests also legitimized Spain as the sovereign of the island and its educational centers.

While lawyers in Havana tried to open an *Academia de Jurisprudencia*, the *Guías de Forasteros* resumed the practice of listing a Dean among the lawyers in Havana. The last time that the *Guías* had announced a Dean, it was Antonio del Monte Tejada, in 1853. At

⁷⁶² *Certámen del Círculo de Abogados de La Habana*, Imprenta Militar de la V. de Soler y Co (Havana, 1880), 6.

⁷⁶³ AHN ULTRAMAR, 141, Exp.14. File promoted by the attorney José Poo Alvarez to open an Institute of Segunda Enseñanza in Havana.

the end of the war, in 1878, the *Guías* mentioned that Francisco Loriga Taboada was the Dean of the lawyers in Havana.⁷⁶⁴ A Galician lawyer, Loriga Taboada, was born in La Coruña in 1825 and grew up in a liberal Spain. Upon graduation, he began a judicial career and served as member of the *Audiencia* in The Philippines, fiscal in Puerto Rico since 1854, and finally a member of the *Audiencia* in Havana in 1870.⁷⁶⁵ For his services, he received the *Great Cross of Isabella la Católica* in 1876 proving his loyalty to the Crown.⁷⁶⁶ At the end of the war, Loriga Taboada was the Regent President of the *Audiencia* in Havana.⁷⁶⁷ As in the decades between 1830 and 1850, the title of Dean bestowed on one of the lawyers in the capital did not imply the existence of a professional organization, but an incipient form of professional identity and recognition. The fact, however, that a *peninsular* judge was the leader of the community of lawyers in Havana reflected the Spanish control over this group in colonial Cuba and perhaps the political affiliations that its members should follow.

At the same time that the lawyers from Havana announced the presence of a Dean in their midst, the *Colegio de Abogados* from Santiago de Cuba continued in operation during the war and had twenty-six *colegiados* in 1878. At that time, its Dean was Miguel Rodríguez Bernal, who became a member of the *Colegio* in 1850, and held positions in the

⁷⁶⁴ *Guía de Forasteros de la Isla de Cuba*, 1878.

⁷⁶⁵ AHN ULTRAMAR, 1082, Exp. 13. File containing the letter where Francisco Loriga was appointed as *abogado fiscal* of the *Audiencia* of Puerto Rico in 1854.

⁷⁶⁶ AHN ULTRAMAR, 4780, Exp. 47. Proposal to honor the magistrate Francisco Loriga Taboada with the order of the Gran Cruz de Isabel la Católica.

⁷⁶⁷ *Guía de Forasteros de la Isla de Cuba*, 1878.

public sector such as *promotor fiscal* after 1855, and Councilor by 1878.⁷⁶⁸ The rest of the Board of the *Colegio* in 1878 were also lawyers established in Santiago for more than twenty-five years, and supporters of the colonial establishment.⁷⁶⁹ The *Guías* also made clear that *colegiados* were loyal to the Spanish regime by including next to their names the awards and distinctions that some of them held. Those were the cases of Pedro Celestino Salcedo Ortega, Lino Guerra Cavado, and Joaquín Mariano Manzano, who shared the award of *Isabel la Católica*, as well as other military distinctions. Guerra and Manzano, in addition, held public positions as *teniente auditor de guerra* and *promotor fiscal*, respectively.⁷⁷⁰ Moreover, most of the members of the *Colegio* had established private practices since the 1840s and 1850s, and remained in office during the war.

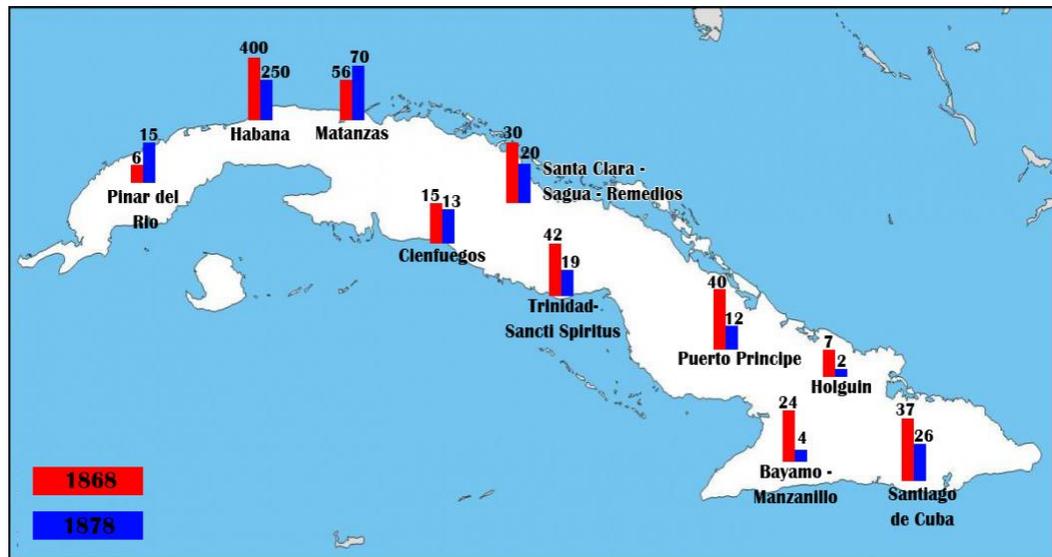
In spite to the survival of the *Colegio* of Santiago and other clusters of lawyers in Havana and other Cuban towns, judging by the lists found in *Guías de Forasteros*, the number of legal professionals openly active in legal practice might have declined nationwide by the end of the war. Only in some Western territories, such as Matanzas and Pinar, did the number of lawyers increase, perhaps by virtue of internal migration away from regions where the war was raging. In most cases, however, the number of lawyers appears to have lowered. In Central Cuba and Santiago, where the mobilization of lawyers was not massive, their number went down; but not as significantly as in Puerto Príncipe

⁷⁶⁸ AHN ULTRAMAR 1695 Exp. 46. Petition of Miguel Rodríguez Bernal for a position of *promotor fiscal* in 1855 in Santiago de Cuba; *Guía de Forasteros de la Isla de Cuba*, (Imprenta del Gobierno, 1878), 154.

⁷⁶⁹ Primer Diputado: Rafael González Ascencio ; Segundo Diputado: Bernardo de Echevarría Mancebo ; and, Treasurer-Secretary: Emiliano Castillo-Rizo. See *Guía de Forasteros de la Isla de Cuba*, (Imprenta del Gobierno, 1878), 154.

⁷⁷⁰ *Guía de Forasteros de la Isla de Cuba*, (Imprenta del Gobierno, 1878), 155.

and Bayamo, where the legal professionals almost disappeared along with their professional organization: the *Colegios*.



Map 5. Data of lawyers in 1868 and 1878, as per the *Guías de Forasteros*

The End of the War and the Survival of the Liberal Spirit

During the first half of the war, Spain witnessed several years of political unrest after the Glorious Revolution of 1868, the kingdom of Amadeo I between 1870 and 1873, and, finally, the instauration of the Spanish Republic until 1874. At the end of this turbulent period, Spain began a process of peace with the restoration of the Bourbon King Alfonso XII and the end of the Carlistas Wars in 1876.⁷⁷¹ Hence, an increasing number of Spanish soldiers concentrated in Cuba reached almost 100,000 in 1877, while the separatist army only had 40,000 men during its best moment.⁷⁷² The internal divisions of the Cuban side, hence, along with the reinforcement of the Spanish positions on the island, weakened the revolutionary side after 1874.

⁷⁷¹ Fornes-Bonavia Dolz, 81 - 82.

⁷⁷² Louis A. Pérez Jr., *Cuba: Between Reform and Revolution* (Oxford University Press, 1995), 121 and 124.

While manifesting their generally liberal thinking through constitutional proposals, Cuban Generals upheld different political views that made apparent their division. The caudillo of Las Tunas, Vicente García González, once famous for leading the sedition in Lagunas of Varona, launched a second revolt in 1877.⁷⁷³ Under the presidency of Estrada Palma, García was appointed as the military leader of Las Villas where local soldiers rejected the leadership of Dominican Máximo Gómez. On his way to Las Villas, García and his followers drafted a new proposal of constitution on May 13th, 1877, in the village of Santa Rita, Puerto Príncipe.⁷⁷⁴ This document's ten articles, conceived to repeal the Constitution of Guáimaro, still reflected a deeply liberal approach. Article 1 affirmed that the government of the Cuban nation would be republican, democratic, and social, while article 2 stated that the sovereignty of the people would be the base for the political organization of the nation. Article 4 established universal suffrage, and articles 3, 6 and 7 invoked the principle of legality and stated that the Cuban nation should function upon the basis of laws.⁷⁷⁵ This proposal was never approved, and the Cuban revolutionary government perceived it as a new act of sedition from Vicente García. Yet, a debilitated government could not take any measures against García, who enjoyed of increasing popularity among Cuban soldiers.

To avoid further military desertions, the Cuban revolutionary government issued a new regulation inspired by the still current Spotorno's Decree. On June 21st, 1877, the

⁷⁷³ Exposition of causes for the revolt of Lagunas de Varona, in Hortensia Pichardo, *Documentos para la historia de Cuba* (Editorial de Ciencias Sociales, Habana, 1973), 389 – 393.

⁷⁷⁴ Description of the revolt of Santa Rita, in Pichardo, 401.

⁷⁷⁵ *Programa de Santa Rita*, in Pichardo, 401 - 402.

revolutionary regime's Secretary of War, Máximo Gómez, enacted *Circular 655* establishing that any military chief, official, class, soldier, or citizens of the Cuban Republic that agreed to peace without independence would be charged with high treason and accordingly sanctioned by a martial court. Lawyers among Cuban forces, such as Manuel Sanguily, opposed this rule and questioned the convenience of Gómez's regulation.⁷⁷⁶ The effects of this regulation, however, did not suffer any delay. For instance, in September of 1877, the Cuban revolutionary government arrested Colonel Antonio Bello Rendón and other Eastern military leaders for engaging in conversations of peace with Spanish representatives. Although Bello escaped, another Cuban official, Esteban Varona, was executed under the new legislation. Political fracture and military indiscipline, however, seemed insurmountable at that time, and many groups within the rebel Cuban Army started operating separately from one another.⁷⁷⁷ In September 1877, for example, Doctor José Enrique Collado and other leaders of Holguín declared this territory an independent *Cantón* with its own local government: a legislative body of four individuals.⁷⁷⁸ In spite of the dismemberment of the Cuban side, the liberal spirit persisted in ideas of decentralization, citizenship, and legalism, which materialized in the necessity of backing every action with supporting law as a mechanism of legitimacy.

While the revolutionary forces split, Spain regained control over the island. Spanish troops captured President Tomas Estrada Palma in October of 1877, and his Vice President

⁷⁷⁶ Yoel Cordovi Nuñez, *Máximo Gomez: Tras las huellas del Zanjón* (Editorial Oriente, Santiago de Cuba, 2005), 25.

⁷⁷⁷ *Ibid.*, 25.

⁷⁷⁸ *Ibid.*, 24.

Francisco Javier Céspedes del Castillo, brother of Carlos Manuel de Céspedes, took office as interim President of Cuba in Arms. Also educated in the liberal *Colegio de San Carlos*, Francisco Javier pursued a degree in arts, rather than in law. As a president, he called for elections, and the House voted in a new president in December of 1877.⁷⁷⁹ The president elected was Vicente García González, the *caudillo* of Las Tunas, and leader of the seditions of Santa Rita and Lagunas de Varona, and perhaps the most prolific constitutional thinker among Cuban revolutionaries.

Contradictions on the Cuban side were a constant during the last years of the war, and the conflict between the military and the civil powers did not stop. One of the most significant and impartial generals of the Cuban Army, Máximo Gómez, also questioned the leadership of the revolutionary government, and its efficiency regarding military actions. “Led by a purely civilian government, made from a House of Representatives that limited the executive’s means of action ... its existence was ephemeral and sad; and it only existed because of the titanic efforts of the military leaders.”⁷⁸⁰ General Gómez criticized the excessive republicanism of the Cuban government in times of war: “beautiful theories had been put into practice, establishing democratic institutions and finally constituting a Republic: all was beautiful but, in my opinion, one should not favor the beautiful but the useful because the Revolution was exposed to die of indigestion with its luxurious galas of

⁷⁷⁹ Raimundo Cabrera, *Cuba and the Cubans* (The Levytype Company Philadelphia, 1896), 428.

⁷⁸⁰ Máximo Gómez, *Relato de los últimos sucesos de Cuba*, Imprenta de Pedro A. Pomier, Kingston, 1878, available in Yoel Cordovi Nuñez, *Máximo Gómez, Tras las huellas del Zanjón, Selección de documentos* (Editorial Oriente, Santiago de Cuba, 2005), 171. “Dirigidos por un gobierno puramente civil, obra de una Cámara de Representantes que coartaba los medios de acción del Ejecutivo (...) su existencia corría efímera y triste; y solamente a los esfuerzos titánicos de los jefes militares debió su existencia. (...)”

laws and democracy.”⁷⁸¹ Gómez also questioned the command of Salvador Cisneros Betancourt during his presidential term. “In my view, one of the persons that most harm caused was Salvador Cisneros. While obeying his purely democratic feelings without recognizing the damage he was doing, he became one of the most ardent defenders of the civilian system ... and he dared to say that he preferred the failure of the Revolution, than allowing the attack of the rights of the people, people which actually did not exist.”⁷⁸² In this statement, Gómez considered that the revolutionary government controlled a very limited portion of territory with difficulty in enforcing their laws. The government tried to defend the virtually imaginary people from the military branch that was the only reason they could still legislate and preserve their democratic institutions. As shown by García and Gómez, while liberal ideas triggered the movement for the independence and the formation of a Cuban Republic, the excessive legalism of its members interfered with the military actions, divided its leaders, and became an apparent cause for the failure of the revolution.

As President, Vicente García found himself in the position of leadership that he had previously claimed for himself, he enjoyed the support of the Army. García realized, however, that the revolutionaries were losing the war, and, rather than continue fighting, started conceiving a plan of demobilization. After confirmation that most members of the

⁷⁸¹ Cordovi Nuñez, *Máximo Gómez, Tras las huellas del Zanjón*, 171. “Se habían puesto en práctica bellísimas teorías, estableciendo instituciones democráticas y constituido en fin una República: todo bellísimo mas en mi opinión no se debía estar por lo bello sino por lo útil porque se exponía la Revolución a morir de consunción con sus lujosas galas de leyes y democracia.”

⁷⁸² *Ibid*, 172. “En mi concepto, uno de los hombres que más daño hizo fue Salvador Cisneros obedeciendo a sus sentimientos puramente democráticos y sin darse cuenta del perjuicio que hacía, fue uno de los defensores más ardientes del sistema civil (...) y llegó a decir que prefería que se perdiera la Revolución, que permitir se atacasen los derechos del pueblo, cuyo pueblo verdaderamente no existía.”

Cuban government and army agreed to stop the war, García resigned in January of 1878.⁷⁸³ The contradictions within the Cuban side, the localism, and the lack of support for the war made it impossible to continue undertaking military campaigns. The House of Representatives of the revolutionary government repealed the Spotorno Decree that punished those who negotiated peace with Spain, formed a commission that would sign the capitulation, and dissolved itself. Spanish and Cuban representatives signed for peace on February 10th, 1878.⁷⁸⁴

The treaty that ended the war is referred as the Pact of Zanjón, named after the place where both Spanish and Cuban representatives signed it. Spaniards sent a committee led by the Captain General Arsenio Martínez Campos, while the revolutionaries elected seven representatives to draft the terms of the capitulation. The President of this group was Emilio Luaces and Ramón Rodríguez its Secretary. The other members were Manuel Suárez, Juan Spotorno, Ramón Roa, Enrique Collazo, and Ramón Pérez Trujillo.⁷⁸⁵ Among the deputies of the Cuban side once again was at least one lawyer, Ramón Pérez Trujillo, the same who belonged to the Martial Court of Sibanicú and, later on, the House of Representatives where he became the main voice in the calls for the removal of Carlos Manuel de Céspedes.

The Pact of Zanjón contained eight articles. The first one bestowed on the island of Cuba the political and administrative conditions that Puerto Rico had.⁷⁸⁶ That meant the

⁷⁸³ Raimundo Cabrera, *Cuba and the Cubans* (The Levytype Company Philadelphia, 1896), 428.

⁷⁸⁴ “Convenio del Zanjón”, in Hortensia Pichardo, *Documentos para la historia de Cuba* (Editorial de Ciencias Sociales, Habana, 1973), 403.

⁷⁸⁵ Máximo Gómez, *Relato de los últimos sucesos de Cuba*, Imprenta de Pedro A. Pomier, Kingston, 1878, available in Yoel Cordovi Nuñez, *Máximo Gómez, Tras las huellas del Zanjón, Selección de documentos* (Editorial Oriente, Santiago de Cuba, 2005), 183.

⁷⁸⁶ Pichardo, *Documentos para la historia de Cuba*, 403 - 404.

application to Cuba of Title XIII of the Spanish Constitution of 1876: “the provinces of *Ultramar* will be ruled by special laws... Cuba and Puerto Rico will have representation in the *Cortes* of the Kingdom.”⁷⁸⁷ Thus, Spain affirmed in the Treaty of Zanjón the status of province that Cuba had received in the Constitution of 1876, as well as previous Spanish Constitutions since 1845. This solution did not satisfy many liberals from Cuba and Puerto Rico who did not perceive a significant change in the island’s constitutional status.⁷⁸⁸

During the following decades, Spain complied with its agreement. After the war, more Spanish laws were enforced in Cuba, extending to free Cubans the civil and political rights of the inhabitants of the Iberian Peninsula. For example, Cubans could create political parties and eventually enjoy some forms of political participation that did not exist before the war. At the same time, the island would have representation in the Spanish Cortes, which would become an essential forum to fight for pressing issues such as the abolition of slavery. The rest of the articles of the Pact of Zanjón referred to the demobilization of the Cuban Army and the pacification of the island. Although there was no complete abolition of slavery yet, it is worth noting that this treaty emancipated slaves who had fought alongside the Cuban troops against Spain.

In spite of signing of the peace, some Cuban leaders continued fighting for independence. Antonio Maceo was one of those who did not want to surrender, and about a month later organized a meeting with the Spanish General Arsenio Martínez Campos in Baraguá on March 15th, 1878. At this gathering, Maceo declared that he was not going to

⁷⁸⁷ Spanish Constitution of 1876, Title XIII, article 89. Conservative forces of Antonio Canovas del Castillo enacted upon the coronation of Alfonso XII as King of Spain in 1875.

⁷⁸⁸ José Luis Vivas, *Historia de Puerto Rico* (Las Americas Publishing Co., 1962), 164.

stop fighting until Cuba became an independent republic. Other voices concurred, such as that of one Cuban General, Manuel de Jesús Calvar Odoardo, a former accountant who had become one of the generals of the Army in the East fighting on the side of Maceo and Calixto García.⁷⁸⁹ In response to Martínez Campos' proposals, Calvar exclaimed: "We do not accept what was agreed in Camagüey, because that agreement does not contain any of the terms of our program, independence and the abolition of slavery to which so much blood and victims have been sacrificed: we shall continue fighting until exhausted: the rest would be dishonoring ourselves."⁷⁹⁰ At the end of the meeting, Maceo expressed that within a week he would recommence fighting for the independence of Cuba. This event is known in Cuban historiography as the Protest of Baraguá.⁷⁹¹ In a last attempt to preserve the Republic of Cuba in Arms, Antonio Maceo wrote a new constitution proving that the liberal spirit and the idea of an independent national state founded on laws were already rooted in creoles' minds. Among those who signed the Constitution there was a former student of law, Juan Rius Rivera, who was born in Mayagüez, Puerto Rico, in 1848, and

⁷⁸⁹ AHN ULTRAMAR, 4445, Exp. 30. This file contains documentation requisitioned to the *infidente* Manuel Calvar in the moment of his apprehension.

⁷⁹⁰ Fernando Figueredo Socarrás, *La Revolución de Yara, 1868 – 1878* (Editorial Pueblo y Educación, 1972), 263 – 270. "Nosotros no aceptamos lo pactado en el Camagüey, porque ese convenio no encierra ninguno de los términos de nuestro programa, la independencia y la abolición de la esclavitud a que tanta sangre y víctimas hemos sacrificado: nosotros continuaremos luchando hasta caer extenuados: lo demás es deshonrarnos."

⁷⁹¹ There is ample historiography about this, which is one of the most important events at the end of the war and also has been used by nationalist and revolutionary historiography as an example of patriotism and heroism among Cuban troops. See Sergio Aguirre, *Raíces y significación de la Protesta de Baraguá*, Editora Política del Partido Comunista de Cuba, 1978; and José Luciano Franco, *La Protesta de Baraguá: antecedentes y proyecciones revolucionarias*, Editorial de Ciencias Sociales, 1978.

was attending the School of Law of the Universidad Central in Madrid at the moment he decided to enroll in the revolutionary Cuban army in 1869.⁷⁹²

The Constitution of Baraguá contained just six articles and was only signed by six members of the Cuban Army who participated of the Protest of Baraguá.⁷⁹³ The liberal spirit of the constitution was apparent. Article 1 established a collegiate government of four individuals, probably one representative from each province (West or *Occidente*, Las Villas, Puerto Príncipe, and East or *Oriente*). This was an attempt at avoiding dictatorship or the concentration of power in a single person. Article 2 allowed this government to appoint a General in Chief that would direct military actions, subordinating this leader to a civil regime. Article 3 expressed that “the government is empowered to make peace upon the basis of independence.” Article 4 established that “the government could only sign the peace with Spain upon consent of the people,” although the constitution did not define people nor included any reference to equality or civil rights. Article 5 incorporated the principle of legality and commanded the government to issue the laws required for the functioning of the republic. Finally, article 6 affirmed the division of powers by creating an independent judicial branch, although constituted by war councils.

In a final effort to preserve the revolution, the Cuban General Manuel de Jesús Calvar formed a government where he was the president. Calvar’s provisional government only operated for two months, until the last military events of the war took place and the Cuban troops were completely demobilized. During this period, the new revolutionary

⁷⁹² Bernal Gomez, 264; and Martin Gaudier, *Genealogías, Biografías e Historia del Mayagüez de Ayer y Hoy y Antología de Puerto Rico* (Imp. El Aguila, 1959), 245 – 249.

⁷⁹³ Hortensia Pichardo, *Documentos para la historia de Cuba*, 406. Félix Figueredo, Fernando Figueredo, Pedro Martínez, Modesto Fonseca, and Juan Rius Rivera signed the Constitution of Baragua.

government sent Maceo abroad to gather supplies and funds for the war, thus losing the most important military leader that remained on Cuban soil. The rest of the members of the revolutionary government, including Calvar, left Cuba in the last days of May of 1878, and the Ten Years War came to its end. The Constitution of Baraguá, nevertheless, confirmed the deep rootedness of the liberal ideology among some Cubans, and their cravings to fulfill a pending liberal agenda.

Conclusion

Lawyers were essential in the organization and preparation of the Ten Years War for the independence of Cuba. After the failure of the *Junta de Información* of 1866, liberal Cubans remained unsatisfied with Spanish policies, and a conspiracy began in Eastern Cuba. The leaders of this plot were lawyers from the *Colegio de Abogados* of Bayamo including its main leader Carlos Manuel de Céspedes. Lawyers including local leader Ignacio Agramonte from other *Colegios*, such as those of Puerto Príncipe, also rose in arms. Other territories showed less inclination to join the revolutionary project, such as Las Villas, Santiago de Cuba, and the West, including Havana. In these territories there were conspirators, but the participation of lawyers was not as massive as in the other places, and the number of legal professionals rather than declining remained stable and even grew in places such as Matanzas and Pinar del Río. Thus, a vast majority of lawyers continued practicing and did not engage in the war, including some liberals such as José Ramón Betancourt who continued promoting the liberal agenda through official mechanisms such as serving in the Spanish Cortes. Members of the revolutionary government enacted legislation introducing modern constitutionalism with separation of powers and even civil

marriage with option for either spouse to petition for divorce. Revolutionary legislation symbolized the progressive approach of the members of the House of Representatives. The seemingly excessive civilian conceptions that revolutionary Cuban leaders implemented, however, interfered with the operation of the rebel Cuban Army and eventually became one of the causes behind the failure of the revolution. The war was also the context for social transformations on the island with the arrival of the first Afro-descendant with a law degree, and the creation of new avenues for members of non-wealthy families to attend the School of Law at the University of Havana. Although Cubans did not reach independence at this time in their national history, this decade of revolution was sparked by and further sparked liberalism, as proved in the constitutional drafts that military leaders Vicente García and Antonio Maceo wrote in the twilight of the war. The signing of the Peace in 1878 meant the end of the war, but not the death of the aspirations of creole Cubans who would enter into a new period of struggle for the final implementation of the liberal agenda. Once more, lawyers would be central actors of this process.

V. **Chapter 4. Between Liberalism and Positivism: Lawyers in Times of Peace (1878 – 1895)**

In 1878, after ten years of war, Cuban and Spanish troops signed the peace agreement in Zanjón. As a result, Cuba entered into a process of reconciliation between *peninsulares* and creoles that included the implementation of pending liberal demands such as political participation and the definitive abolition of slavery. The Pact of Zanjón bestowed Cuba the same political and administrative status that Puerto Rico enjoyed.⁷⁹⁴ After 1878, Cuba was recognized as an oversea province, and creoles received political rights such as vote in local elections, speech, press and association.⁷⁹⁵ The new status allowed Cubans to actively engage in political debates paving the way for the definitive implementation of pending components of the liberal agenda. As in previous historical periods, lawyers in Cuba were positioned at the center of the transformations on the island and were either promoters or opponents to the liberal reforms such as the creation of political parties and the abolition of slavery.

At the same time, positivism expanded throughout Cuba and reached the community of legal professionals. The existence of positivism and iuspositivism in Cuba has been contested by recent historiography. Some authors, like Isabel Monal and Olivia Miranda, have reduced the existence of positivism to the legal field, with a very limited influence across Cuba. In 1994, they wrote: “The preponderance of the positivist perspective in Cuba was not as strong as in other countries of the continent; its influence mostly impacted the

⁷⁹⁴ Hortensia Pichardo, *Documentos para la Historia de Cuba*, Vol. I (Editorial de Ciencias Sociales, 1965), 403 – 404.

⁷⁹⁵ Constitution of Spain, 1876, Title XIII.

legal field and, to some extent, the literary critic.”⁷⁹⁶ By contrast, other authors such as Pedro M. Pruna have documented the existence of positivism and have focused on the limitations of the Cuban model being a critic of its followers on the island. In 2006, Pruna published: “Cuban positivism, rather than a philosophical trend, was a mottled and extensive cultural movement that included shameful materialists, confessed agnostics, and even possible supporters of the new religions.”⁷⁹⁷ Positions are thus divided on the extent that positivism reached in Cuba, while other authors on Cuban liberalism during this period, such as Yoel Cordoví, explain the existence and implementation of positivism as part of the liberal reforms in Cuba late nineteenth century. Then, there are not only questions whether positivism existed in Cuba, but also its relation with liberalism.

This chapter, hence, seeks to bring light into the coexistence of liberalism and positivism in Cuba, and how those systems influenced the legal community in the late colonial period. After creole lawyers supported post-war Spanish liberal policies such as the abolition of slavery and formation of local political parties, many legal professionals that had embraced liberalism manifested a growing tendency to positivism focusing, for example, on the enforcement of the Spanish codification, the learning of practical areas of the law, and legal anthropology.

⁷⁹⁶ Isabel Monal and Olivia Miranda, *Filosofía e ideología de Cuba, siglo XIX* (UNAM, 1994), 27. “La preponderancia de la óptica positivista en Cuba no fue tan fuerte como en otros países del continente; su impronta se dejó sentir más en el derecho y, en alguna medida, en la crítica literaria.”

⁷⁹⁷ Pedro M. Pruna, *Historia de la ciencia y la tecnología en Cuba* (Editorial Científico-Técnica, 2006), 173.

Lawyers and Reconciliation: Reestablishment of the *Colegio de Abogados*

The number of lawyers across the island had significantly declined during the war. Some lawyers had fallen in the battlefield, including the two most important caudillos of the revolution: Carlos Manuel de Céspedes and Ignacio Agramonte. Many other lawyers had been prosecuted for their participation in any form of the separatist insurrection being sent to prison or into exile. For this reason, a significant part of Cuban lawyers relocated to the United States, Spain, and Central America and, overall, their number across the island declined.

This was the case of Rafael Manduley, *procurador* from the city of Holguín. This Eastern town was an active center of the conspiracy during the Ten Years War, and even declared an independent canton during the last years of the war. In 1879, the government of the city identified Manduley as a conspirator for Cuban independence, and initiated his prosecution on the grounds of *infidencia*. As a result, Manduley was finally sent into exile to Spain.⁷⁹⁸ This case proved that the signature of the peace did not extinguish the aims of Cuban separatists, and that legal professionals continued being target of local authorities in order to preserve Spanish control over the island. The news that the war was over and that those involved in the revolution would receive an amnesty, however, encouraged many Cuban exiles to return to the island.

Many legal professionals took advantage of the Spanish amnesty and went back to Cuba.⁷⁹⁹ This group included former members of the Revolutionary Government and

⁷⁹⁸ AHN ULTRAMAR 4763 Exp. 48. File initiated by the Capitan General of Cuba in 1879 for the prosecution of *procurador* Rafael Manduley and exile to Spain for his insurrectionary background.

⁷⁹⁹ The exact number of lawyers resettling in Cuba is unclear when the *Guías of Forasteros* published incomplete lists of the lawyers after 1878 because they omitted many towns and even important cities that used to be included before the war such as Bayamo and even Puerto Principe.

Army. Esteban Estrada, for example, returned in 1878, claimed his properties that had been confiscated, and reopened his law firm in Bayamo.⁸⁰⁰ Francisco Esteban Tamayo returned to Manzanillo where he obtained a position as Municipal Judge until his death in 1883.⁸⁰¹ Ramón Céspedes Barredo also returned to Cuba where he became Civil Judge in the municipality of Manzanillo until his death in 1890.⁸⁰² Jorge Carlos Milanés y Céspedes came back to Cuba in 1882, and worked as a lawyer until his sudden death in 1884.⁸⁰³ Lucas del Castillo Moreno returned to Bayamo in 1878 and practiced as a lawyer until 1883, when he became Property Register.⁸⁰⁴

Other lawyers who had remained in Cuba also reincorporated to the legal profession sooner or later. Luis Fernández de Castro, for example, abandoned the revolutionary movement and through an amnesty returned to work as an attorney in Manzanillo as early as 1872.⁸⁰⁵ Joaquín Acosta Fonseca, in turn, continued in the battlefield until 1878 and, upon the signature of the peace, was appointed as Property Register in Manzanillo.⁸⁰⁶ These examples suggest that lawyers became part of the process of reconciliation taking place on the island after the war. As can be seen, a pacified Cuba did not deny lawyers who

⁸⁰⁰ AHN ULTRAMAR 4773, Exp. 44. Denial to return his properties to Esteban Estrada. AHN ULTRAMAR 4773, Exp. 43. Esteban Estrada requests the return of his properties, or the payment of the monthly stipend for political exile.

⁸⁰¹ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1880), 140.

⁸⁰² *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1878).

⁸⁰³ AHN ULTRAMAR 148, Exp. 50. Authorization to practice as an attorney to J. Milanés Figueredo.

⁸⁰⁴ *Guía de Forasteros de la Siempre Fiel Isla de Cuba*, (Imprenta del Gobierno, Havana, 1880-81), 153.

⁸⁰⁵ *Guía de Forasteros de la Siempre Fiel Isla de Cuba* (Havana, Imprenta del Gobierno, 1972).

⁸⁰⁶ AHN FC-M°_JUSTICIA_REG_PROPIEDAD, 424, Exp. 825, Personal file of the Register of the property Joaquín Acosta Fonseca.

had participated in the revolution the opportunity to return and continue with their professional careers, some of them even occupying public positions.

Although many lawyers returned to their professional practice, reincorporation usually came with a price and some logically chose to erase from their resumes their participation in the revolution. In his application to become Property Register, for example, Acosta Fonseca hid his involvement in the war and presented his professional experience, omitting those tumultuous years. Fonseca's application comprised of three documents: his personal statement and request dated September 21st, 1880; a transcription of his baptismal certificate; and, the confirmation from the *Audiencia* of Puerto Príncipe that he was authorized to practice as a lawyer since 1847. As his merits, however, these documents only referred that he had had an open studio (*estudio abierto*) for more than eight years, without precision of time and place, but probably referring to his time as lawyer in the *Colegio de Bayamo* before the war.⁸⁰⁷

Three other aspects were highlighted in the application of Acosta Fonseca. Local priest Pedro García Viejo from Manzanillo justified the unavailability of the original baptismal certificate due to his loss during the burning of the city of Bayamo. He described the fire as a disaster that Bayamo suffered at the beginning of the revolution, when Acosta Fonseca was actually one of the promoters of the burning of the city in 1869.⁸⁰⁸ A second interesting element in Acosta's application is his pledge of loyalty to the Spanish

⁸⁰⁷ AHN FC-M°_JUSTICIA_REG_PROPIEDAD, 424, Exp. 825, Personal file of the Register of the property Joaquín Acosta Fonseca.

⁸⁰⁸ Ibid. “*Por haberse desaparecido la primitiva en el siniestro que sufrieron los archivos parroquiales de la ciudad de Bayamo;*” and “*Por haberse extraviado los archivos parroquiales a principios de la insurrección de esta Ciudad, por el incendio que sufrió la misma, no me es posible expedir como se me solicita la partida bautismal.*”

Monarchy, when he had just demobilized from the revolutionary army two years earlier.⁸⁰⁹ Lastly, the confirmation from the *Audiencia* has a marginal note from the Committee of Vigilance, a Spanish organization to oversee residents in Cuba and report about possible conspiracies, reporting that Acosta was clear from revolutionary activities. For the purpose of his application to become an official of the Spanish bureaucracy, Acosta Fonseca was never involved in the Ten Years War.

In other cases, not only the lawyers who participated in the war but also their relatives tried to minimize legal professionals' involvement in the revolution to their benefit. In 1880, José Fernández de Castro y Céspedes, son of Luis Fernández de Castro, for example, was sent to exile in Madrid for suspicion of conspiracy against the Crown. Member of two prestigious Cuban families, Fernández de Castro y Céspedes appealed to his cousin, Manuel Fernández de Castro, who was Senator for Santa Clara, to get him a pardon. The Senator obliged and sent a letter to Cayetano Sánchez Castillo, Secretary of Ultramar, on July 20th, 1880, invoking the good name of his family. This attempt, however, proved ineffective when still in 1888 José Fernández de Castro was asking for authorization to return to Cuba. This time, he wrote a letter himself to the Spanish government arguing, among other issues, that his father, Luis Fernández de Castro, was the only *bayamés* who remained loyal to Spain during the revolution.⁸¹⁰ In reality, Luis Fernández de Castro

⁸⁰⁹ AHN FC-M°_JUSTICIA_REG_PROPIEDAD, 424, Exp. 825, Personal file of the Register of the property Joaquín Acosta Fonseca. “En mérito de ello, A VM con la instancia más reverente suplica se digne concederle el nombramiento de tal registrador de Manzanillo como gracia y merced que espera alcanzar del magnánimo Corazón de VM.”

⁸¹⁰ AHN ULTRAMAR 4763 Exp. 1. File of the prosecution of José Fernández de Castro y Céspedes for conspiracy. “*Mi padre doctor en Jurisprudencia de alguna influencia y reputación en Bayamo, fue el único bayamés que no solo no aceptó la revolución que estalló en aquella ciudad el 68, sino que protestando se marchó a Manzanillo y de ahí a La Habana.*”

attended the initial meetings of the revolution where he even received the commission to mobilize the territory of Las Villas. Although he abandoned the revolution and continued working as a lawyer in Manzanillo after 1872, his participation of the separatist movement was unquestionable.

Breaking with the revolutionary past became necessary when Spain, as part of the process of reconciliation, forbade manifestations of separatism in Cuba. As José Fernández de Castro y Céspedes, many other Cubans continued being prosecuted after the war, and specially in 1880 when a brief military uprising led by Calixto García took place in Eastern Cuba.⁸¹¹ In some cases, an individual only had to be present during the arrest of an actual suspect of conspiracy to be arrested himself. The same Fernández de Castro y Céspedes, for example, alleged that he was only visiting his uncles Ricardo and Enrique Céspedes when Spanish authorities apprehended them, and that was enough for him to be also sent to jail.⁸¹²

Both during and after the war the largest number of legal professionals continued residing in Havana. This group was a very heterogeneous cluster, especially regarding their political views, including former rebels, members of conspiracies, liberals who did not fight during the war, and those who supported Spanish colonialism. The only thing they all had in common was their profession as lawyers; thus, a form to provide cohesion to such a diverse group was through the reestablishment of *Colegios de Abogados. Habanero*

⁸¹¹ AHN ULTRAMAR 4763 Exp. 51. File of the prosecution of conspirators in 1880, and the list that those who were sent into exile on July 25th, 1880 to Puerto Rico, and finally Spain. The list includes the names of Ricardo and Enrique Céspedes.

⁸¹² AHN ULTRAMAR 4763 Exp. 1. File of the prosecution of José Fernández de Castro y Céspedes for conspiracy.” En unas de estas situadas en la costa me encontraba en Octubre de año 79 en unión de mis tíos Enrique, Ricardo y Manuel Céspedes cuando recibió el Comandante de Armas del lugar órdenes superiores de prender si los dos primeros y aquellos que fuesen sospechosos.”

lawyers had envisioned a professional organization since 1812 when they requested the authorization to open a *Colegio*, which briefly materialized during 1852. At the end of the war, the *Guía de Forasteros* of 1878, an official publication, resumed this project when the President of the *Audiencia* Francisco Loriga Taboada appeared as the Dean of the *Abogados* in Havana.⁸¹³ Similar announcements sporadically can be found in the *Guías* published between 1820s and 1850s that mentioned the existence of a Dean while lacking a formal *Colegio* in the capital.

The first step toward the creation of the *Colegio de Abogados* in Havana was the establishment of an organization with academic purposes in 1878.⁸¹⁴ Lawyers from the capital received authorization to open an *Academia de Legislación y Jurisprudencia* in 1874, but it was immediately closed on the ground of being a center of anti-Spanish conspiracies.⁸¹⁵ By the end of the war, however, the Spanish policy of reconciliation favored liberal rights such as freedom of association. Lawyers received authorization to open a scientific corporation for legal training. The official constitution of the *Círculo de Abogados* took place in the lawyers' suite within the *Audiencia* of Havana in 1878. Lawyers from Havana elected a board that included Pedro González Llorente as President, Benito Bermudez as Vicepresident, thirteen *vocales* or members, one Treasurer-Accountant and one Secretary.⁸¹⁶

⁸¹³ *Guía de Forasteros*, 1878; and *Certamen del Círculo de Abogados de La Habana*, 70.

⁸¹⁴ *Certamen del Círculo de Abogados de La Habana*, (Imp. Militar de la V. de Soler y Co, Havana, Cuba, 1880), 70.

⁸¹⁵ AHN ULTRAMAR 164, Exp. 22. Opening of the Academy of Legislation of Havana.

⁸¹⁶ *Certamen del Círculo de Abogados de La Habana*, 7 - 8.

Pedro González Llorente Ponce was born in Trinidad in 1827, and graduated as lawyer in 1852.⁸¹⁷ Being a member of Cuban aristocracy, González Llorente married with his niece María del Carmen Torrado in 1859, having to request a marriage waiver to the Catholic Church.⁸¹⁸ During the war, he represented families whose properties the colonial authorities had seized under charges of *infidencia*.⁸¹⁹ His loyalty, however, always was with the Spanish authorities, and he pursued a political career during the war within the city hall of Havana. For that reason, he acted as interim major of the city after the war, even delivering a speech in honor of Queen María Cristina in 1881.⁸²⁰ Although he had shown some support to liberals by defending them in trial, González Llorente supported the Spanish possession of Cuba, which made him an appropriate (viz. loyalist) candidate to direct the association of lawyers. The creation of the *Círculo* was the cornerstone for the reopening of the *Colegio de Abogados* on the capital, which opened shortly afterwards.

In 1879, the Spanish government granted the request of lawyers from Havana to reopen their *Colegio de Abogados*.⁸²¹ The new organization of lawyers was a combination of the traditional *Colegio* and the recently established *Círculo de Abogados*. As described by González Llorente in 1880, this institution should preserve the *Círculo*, as the intellectual entity dedicated to the study of the law and legal training, whereas the *Colegio* would be

⁸¹⁷ ANC Libro de Registros del Colegio de Abogados de la Habana.

⁸¹⁸ AHN ULTRAMAR 1715, Exp. 9. Request of matrimonial waiver of González Llorente to the Diocese of Havana.

⁸¹⁹ AHN ULTRAMAR 4349 Exp. 12. File of the representation of González Llorente of the family Cantero Izugua for the confiscation of their properties for *infidencia*.

⁸²⁰ AHN ULTRAMAR 4798 Exp. 9, Speech of González Llorente for the birthday of the Queen in 1881.

⁸²¹ *Certamen del Círculo de Abogados de La Habana*, 70.

“the administrative and disciplinary body, official representation of the class and guardian of its rights.”⁸²² The *Colegio*, therefore, included the duties to not only promote the education of the legal professionals but also control and regulate their activities. In the inauguration ceremony, the members of the new body extended a tribute of respectful gratitude to Spanish official Arsenio Martínez Campos, who signed the authorization to open the *Colegio*.⁸²³

Captain General Arsenio Martínez Campos and José María Garely, President of the Civil Chamber of the *Audiencia* in Havana, supported the creation of the *Círculo* and, ultimately, the *Colegio*. The members of the *Círculo* called those royal officials “its founding fathers.”⁸²⁴ Both “fathers” were *peninsulares*, and none of them supported the independence of Cuba. Arsenio Martínez Campos was a conservative Spanish politician and military, which had served as Captain General in Cuba during the war and after 1878. Martínez Campos was in charge to pacify the island. He negotiated the peace with the representatives of the Cuban government, and met Antonio Maceo in Baraguá with the intention to, finally, demobilize the remnants of the revolutionary troops.⁸²⁵ Martínez Campos, therefore, embodied Spanish colonialism on the island and the triumph of the metropolis over the colony.

⁸²² *Certamen del Círculo de Abogados de La Habana*, 70

⁸²³ *Ibid*, 8.

⁸²⁴ *Ibid*, 70.

⁸²⁵ *Diario de Sesiones de las Cortes Constituyentes*, Vol. 4 (Imprenta de J.A. Garcia, 1870), 2269; and Hortensia Pichardo, *Documentos para la historia de Cuba* (Editorial de Ciencias Sociales, Habana, 1973), 403.

José María Garely, on the other hand, was from Valencia and received his law degree from the Universidad Central in Madrid in 1849.⁸²⁶ Garely was son of the liberal attorney Nicolás María Garely, a former Minister of Justice, President of the Supreme Court of Spain, and one of the drafters of the *Estatuto Real* of 1834.⁸²⁷ Although a moderate liberal, his father had been a promoter of significant changes in Spain including the enactment of the codes, as well as the abolition of the Inquisition and other privileges of the Church.⁸²⁸ Following his father's progressive political views, José María became governor of Baleares in 1856, Ávila in 1857, Vizcaya in 1859, and was also Counselor of the Council of Administration of Cuba in 1861.⁸²⁹ Once in Cuba, José María Garely was appointed *oidor* in Trinidad, Puerto Príncipe and, finally, in Havana in 1868.⁸³⁰ By 1879, Garely was President of the Civil Chamber of the *Audiencia* of Havana.⁸³¹ The recognition of Martínez Campos and Garely as “founding fathers” of the *Círculo de Abogados* showed the loyalist

⁸²⁶ AHN UNIVERSIDADES, 4117, Exp. 6. Academic file of José María Garely.

⁸²⁷ Manuel Ovílo Otero, *Escenas contemporáneas: revista política, parlamentaria, biográfica, necrológica, científica, literaria, artística y memoria de los ayuntamientos y pueblos mas principales de España*, (Establecimiento tipografico de D.A. Vicente, 1857), 135.

⁸²⁸ Felipe-José Vicente Alguero, *El Catolicismo liberal en España* (Editorial Encuentro, 2012), 91.

⁸²⁹ Juan Llabres Bernal, *Cronología de los Jefes Políticos y Gobernadores Civiles de la Provincia de Baleares (1812 – 1930)*, Bolletín de la Sociedad Arqueológica Luliana, T. XXIII, Vol. 594 (Baleares, 1930), 87; Ignacio Miguel Rubert and José Reus García, *Boletín de la Revista General de Legislación y Jurisprudencia: periodico oficial del Ilustre Colegio de Madrid*, Vol. 15 (Revista de Legislación, 1861), 112; *Boletín oficial del Ministerio de Fomento*, Vol. 29 (Ministerio de Fomento, 1859), 5; and *Faro Nacional*, Vol. 3 (Editorial Luis García, 1857), 317.

⁸³⁰ See *Gaceta de Madrid*, (Imprenta Real, 1868), 2; and *Boletín de la Revista General de Legislación y Jurisprudencia*, Vol. 29 (Imprenta de la Revista de Legislación, 1868), 256.

⁸³¹ *Diario de Sesiones de las Cortes Constituyentes*, Vol. 4 (Imprenta de J.A. Garcia, 1870), 2269. Garely showed as one of the signatories of José Martí's rejection to practice as a lawyer in 1878. See Green Library Special Collection, Florida International University, Dirección de Cultura de Cuba, *Expediente de José Martí: solicitud para ejercer de abogado* (Publicaciones de la Secretaría de Educación, La Habana, Cuba, 1935), 19.

stance and allegiances of their members, in contrast to the progressive lawyers that had led the wars for the independence in 1868.

Unlike medieval gremial institutions, the newly created *Colegio* did not draft their statutes. On the contrary, the statutes were a compilation of the Spanish legislation on lawyers and their organizations, a show of political and legal subordination to the Iberian metropolis. *Colegiados* mostly followed the Organic Law for the Organization of the Judicial System of September 5th, 1870.⁸³² In this law, article 865 resumed the approach of the *Estatutos Generales* of 1838 and the Royal Decree of 1858, requiring lawyers to inscribe in a *Colegio de Abogados*, a condition that had been abandoned in 1863.⁸³³ Article 873, additionally, listed the requirements to be a lawyer: older than twenty-one years of age, *Licenciado* in Civil Law, and neither criminally prosecuted nor condemned to afflicting punishments.⁸³⁴ Article 874, in an attempt to prevent corruption, kept from legal practice those occupying judicial positions, prosecutors, and functionaries of the Secretary of Justice.⁸³⁵ The application of the Organic Law for the Organization of the Judicial

⁸³² This law regulated the issues pertaining to lawyers between the articles 855 and 880. *Ley orgánica del poder judicial de 15 de septiembre de 1870 y Ley adicional de 14 de octubre de 1882: ampliadas con notas, referencias y resoluciones aclaratorias, reformas, supresiones y disposiciones publicadas hasta la fecha sobre organización y régimen de los tribunales y seguidas del Código de justicia military*, Imprenta El Consultor, Madrid, 1902.

⁸³³ *Ley orgánica del poder judicial de 15 de septiembre de 1870*, article 865. “En los pueblos en que haya Colegios de Abogados o Procuradores solo podrán ejercer estas profesiones los que estuvieren incorporados a ellos con estudio abierto en el mismo pueblo.”

⁸³⁴ *Ley orgánica del poder judicial de 15 de septiembre de 1870 y Ley adicional de 14 de octubre de 1882*. Artículo 873. “Para ejercer la abogacía, se requiere: 1. Haber cumplido 21 años. 2. Ser Licenciado en Derecho Civil. 3. No estar procesado criminalmente. 4. No haber sido condenado a penas aflictivas, o haber obtenido rehabilitación.”

⁸³⁵ *Ley orgánica del poder judicial de 15 de septiembre de 1870 y Ley adicional de 14 de octubre de 1882*. Artículo 874. “No podrán ejercer la abogacía: 1. Los que estén desempeñando cargos judiciales o del Ministerio Fiscal, exceptuándose de esta regla los Jueces y Fiscales municipales. 2. Los que desempeñen empleos en el Ministerio de Gracia y Justicia, o en la Sección de Estado y Gracia y Justicia del Consejo de Estado. 3. Los auxiliares y dependientes de los tribunales.”

System to the Spanish Antilles in 1883 standardized not only the court system, but also its actors and institutions across Spanish territories.

The Organic Law for the Organization of the Judicial System, for instance, ruled the functioning and constitution of the *Colegios de Abogados*. Article 859 provided that every town or city that was residence of an *Audiencia* should have a *Colegio*. The same article set the purpose of this institution: oversee “the fair distribution of positions among those legal professionals who acted within the locality, and preserve the good order of the corporation, along with the decorum, fraternity and discipline of *colegiados*.”⁸³⁶ The law also ordered to open a *Colegio* in the provincial capitals or any other town with more than twenty lawyers. Although no one could practice the profession of lawyer without membership or *colegiatura*, the law of 1870 followed the approach of the *Estatutos Generales* of 1838 when it did not set a cap for the number of members of the *Colegios*.⁸³⁷

Other distinction of the statutes of 1879 regarded to those who would write them. In the first call for a *Colegio* in 1819, a moment when the legal profession was concentrated within an exclusive elite, Ferdinand VII required the presence of the four older lawyers thus relying mostly on experience and rank. By contrast, in 1879, the members of the Board who drafted the *estatutos* were the biggest financial contributors to the organization.⁸³⁸

⁸³⁶ *Ley orgánica del poder judicial de 15 de septiembre de 1870 y Ley adicional de 14 de octubre de 1882*. Artículo 859. “En los pueblos en que haya Audiencia habrá un Colegio de Abogados y otro de Procuradores, cuyo principal objeto sera la equitativa distribución de los cargos entre los que actúen en los Tribunales existentes en la localidad, el buen orden de las respectivas corporaciones, y el decoro, la fraternidad y disciplina de los colegiados.”

⁸³⁷ The statute of the *Colegio de Abogados* of Havana in 1879 also incorporated other current Spanish regulations for lawyers. These included the Royal Decree of 1863, and the Royal Decrees of December 17th, 1848, and August 24th, 1847. *Colegio de Abogados de la Habana, Estatutos para el regimen del Colegio de Abogados de la Habana*, Imprenta del Aviador Comercial, San Ignacio 27, 1879.

⁸³⁸ *Estatutos para el régimen del Colegio de Abogados de la Habana*, footnote in page 2.

That was a departure from tradition that proved how modernity was making its way through the Cuban legal community, imposing wealth over seniority.

Article 1 of the *estatutos* listed the objectives for the establishment of the *Colegio*. The first one was “the equitable distribution of duties among those who act in local courts.”⁸³⁹ The *Colegio* should establish and oversee the specific functions of the members of the legal community including professors of law, *oidores*, fiscales and attorneys. Article 1 also listed as second goal of the *Colegio* “the good order of the corporation.”⁸⁴⁰ In this portion, it recognized the legal status of the *Colegio* as a corporation, but also referred to the necessity to preserve its “good order.” It is unclear what they really meant by “good order,” but it likely implied, among other things, the preservation of a Spanish Cuba. Hence, the political affiliation of the members should support Spanish control over the island, and lawyers would become defenders of the *status quo* rather than potential leaders of separatists movements that would break the law and alter the political order as had occurred in 1868.

A third and final target of the *Colegio* was the preservation of “the decorum, fraternity and discipline of its members.”⁸⁴¹ The legislation seems to have referred to the question of honor among legal professionals. Some authors have covered this issue in the historiography across Latin America, specially after the independent movements and the

⁸³⁹ See Colegio de Abogados de la Habana, *Estatutos para el régimen del Colegio de Abogados de la Habana* (Imprenta del Aviador Comercial, San Ignacio 27, 1879) 2. In the right margin of the *estatutos*, there is a reference of that article with its cross-reference in the Spanish legislation, showing that every article its legal and consistent with current Spanish laws.

⁸⁴⁰ Colegio de Abogados de la Habana, *Estatutos para el régimen del Colegio de Abogados de la Habana*, (Imprenta del Aviador Comercial, San Ignacio 27, 1879), 2.

⁸⁴¹ *Estatutos para el régimen del Colegio de Abogados de la Habana*, 1879, 2.

rise of liberalism.⁸⁴² Bourdieu referred to the related habitus of the lawyers and the ties of the legal profession to formalism or, as he called it, “the power of form.”⁸⁴³ Since lawyers requested the authorization to open a *Colegio de Abogados* in Havana in 1812, they invoked the honor of the profession as one of the reasons to create this institution. The *Estatutos Generales* and subsequent Spanish legislations preserved this notion and consistently referred to the preservation of honor as one of its major goals.

Over the years, however, the initial idea of honor changed and adapted to principles of liberalism abandoning its pre-liberal conceptions. One of the best examples came from the requirement of *limpieza de sangre*, which was a *sine qua non* condition to become a lawyer and, consequently, a member of the *Colegio*, in the pre-liberal era.⁸⁴⁴ In contrast, the statutes of 1879 did not mention *limpieza de sangre* and did not invoke it as a requirement to become a lawyer. Finally, the request for discipline meant that lawyers should comply with the established social order, behaving according to the laws. Hence, the notions of honor and decorum tied lawyers’ behavior to obedience and respect for both the law and the prevailing political order.

⁸⁴² Various scholars have explored the transformation of the ideas of honor in the transit to modernity, and its impact on law and legal professionals. On this regard, see Victor Uribe Uran, *Honorable Lives: Lawyers, Family, and Politics in Colombia, 1780 – 1850*, University of Pittsburgh Press, 2000; Suean Caulfield, Sarah C. Chambers, Lara Putnam, Honor, Status, and Law in Modern Latin America, Duke University Press, 2005; and Reuben Zahler, *Ambitius Rebels: Remaking Honor, Law and Liberalism in Venezuela, 1780 – 1850*, University of Arizona Press, 2013.

⁸⁴³ Pierre Bourdieu, *The Force of Law: Toward Sociology of the Juridical Field*, *The Hastings Law Journal*, Vol. 38, July, 1987, 805 – 853.

⁸⁴⁴ ANC Fondo Gobierno Superior Civil, Legajo 862, Orden 29197, Colegio de Abogados, Expediente promovido por varios abogados solicitando establecer un colegio; and ANC, Fondo Gobierno Superior Civil, Legajo 47, Orden 28, Colegio de Abogados, Carta pidiendo informe sobre el establecimiento de un Colegio de Abogados en La Habana basados en los mismos estatutos que el de México.

The *estatutos* contained three requirements to become a member of the *Colegio* of Havana. Applicants had to be *vecinos* of the capital, to have an open *estudio* or law firm, and to be able to afford the costs and contributions imposed by the organization.⁸⁴⁵ These requirements made for a rather elitist the membership of the *Colegio*, and the social exclusivity was further determined by the economic capacity expected from those who intended to become *colegiados*. These terms proved that Cuban lawyers were still aligned with their peers who requested the creation of a *Colegio* with very strict conditions of acceptance in 1812. Still, by contrast, the 1879 statutes embraced the liberal notion of an open membership, without a fixed number of members, and allowing *colegiatura* to all those who fulfilled the requirements.

The first call for enrollment to the *Colegio* of Havana opened in December of 1879, and 137 lawyers inscribed within that month. This initial group of *colegiados* was heterogeneous based on their origins or *naturalidad*. Twenty-two lawyers were born in Spain, which represented at least 15 percent of the members at that time. The larger majority was from Havana with 57 *naturales*, more than 55 percent of *colegiados*. Finally, 30 percent of the lawyers came from other provinces distributed as follows: 16 from Matanzas, 14 from other towns in Western Cuba, 4 from Las Villas, 1 from Puerto Príncipe, and 3 from Eastern Cuba. Thus, the *Colegio* included members from every region of the island, although the majority were *habaneros*, followed by *peninsulares*. The number of lawyers enrolled to the *Colegio* kept growing during the following year and 117 other lawyers joined this institution in 1880. That made up for a total of 254 members in thirteen

⁸⁴⁵ Colegio de Abogados de la Habana, *Estatutos para el régimen del Colegio de Abogados de la Habana*, (Imprenta del Aviador Comercial, San Ignacio 27, 1879), 2.

months. Once the available lawyers had already registered in the *Colegio*, the number of new inscriptions remained stable (between 25 and 35 per year) until 1892 when it declined to 15. The reason for this decrease remains unclear, but it coincided with a time of growing political tension and economic crisis on the island before the new uprising for Cuban independence in 1895.

Table 10. New members of the Colegio de Abogados in Havana (1879 – 1894)

Year	Habaneros	Spanish	Cuban Provinces	Other	Total
1879	77	22	38	0	137
1880	55	15	46	1	117
1881	14	10	8	1	33
1882	23	6	25	1	55
1883	27	10	21	1	59
1884	14	8	11	0	33
1885	10	5	19	2	36
1886	18	2	12	0	32
1887	13	1	14	0	28
1888	20	6	8	0	34
1889	10	6	5	2	23
1890	12	4	7	2	25
1891	12	5	8	1	26
1892	5	5	3	2	15
1893	6	4	6	1	17
1894	11	5	4	1	21
Total	315	126	235	15	691

Source: Register of the *Colegio de Abogados* in Havana, ANC.

Before the opening of the *Colegio* in 1879, the *Audiencia* of Havana was in charge to examine the lawyers who wanted to practice in Cuba. In some cases, the *Audiencia* rejected applications for not satisfying the requirements. Records illustrate two of those cases. One case was Justo de la Torre's application. Upon his arrival from Spain, the

Audiencia denied De la Torre's request to practice because his petition lacked the diploma and the magistrates did not accept any amendments or alternative evidence he produced such as witnesses and letters.⁸⁴⁶ The second of them refers to the future leader of Cuba's independentist movement, José Martí, who returned to Cuba in 1878 from his exile in Spain where he graduated from the School of Law in Zaragoza. Martí requested to the *Audiencia* the authorization to work as a lawyer in Havana but he could not present his diploma, which had not been sent from Spain. Although Martí produced letters from Spanish scholars and authorities proving his legal training, the *Audiencia* of Havana did not grant his request arguing that his credentials did not prove the required authenticity of his diploma.⁸⁴⁷ Upon being denied his request to practice law, Martí left the island that year and did not return until 1895 as one of the leaders of the new war for Cuban independence.

After the constitution of the *Colegio*, its Board controlled membership and, thus, authorized who could practice as a lawyer in Havana. Articles 10 and 11 of the *estatutos* established the reasons to deny membership to the *Colegio*.⁸⁴⁸ They included previous expulsion from other *Colegio*, being under a correctional punishment, or suspended from the practice of the profession. Other two reasons were delinquency in the payments of the contributions to the *Colegio*, and change of residency without previous report to the *Colegio*. The *estatutos* also contemplated reasons to refuse membership based on notions

⁸⁴⁶ AHN ULTRAMAR 17, Exp. 5. Request that the advocacy would not be practiced without previous request. This file contains the request sent by the Audiencia of Havana to the Ministerio de *Gracia y Justicia* in Spain asking for their confirmation to forbid Justo de la Torre to practice in Cuba.

⁸⁴⁷ Green Library Special Collection, Florida International University, Dirección de Cultura de Cuba, *Expediente de José Martí: solicitud para ejercer de abogado*. Publicaciones de la Secretaría de Educación, La Habana, Cuba, 1935.

⁸⁴⁸ These articles replicated the regulation of the Royal Decree of 1863, the article 10 of the *Estatutos Generales* of 1838, and the Royal Order of 1847.

of honor, especially observing a bad conduct resulting in public scandals, or engaging in activities that the Board could determine as offensive “for the decorum of the profession and the *Colegio*.”⁸⁴⁹

The reasons for separation or *baja* are not always clear in the Register of the *Colegio*, but common elements among those lawyers might shed light on the reasons for the termination of their memberships.⁸⁵⁰ Until 1894, the *Colegio* voted the separation of 41 members, mostly concentrated as follows: 4 on November 24th, 1884, 16 on December 3rd, 1885, and 13 on May 27th, 1887.⁸⁵¹ The most common factor among those who either were separated or abandoned the *Colegio* was moving away from Havana. One of the requirements of *colegiatura* was to be *avencidado* and reside within three *leguas* from the capital of the island. Thus, moving away broke with this requirement and affected the possibility to practice law in the city. At least fifty-three of those lawyers who did not preserve their *colegiatura* by 1895 had moved to other Cuban towns, Spain, Puerto Rico, the United States, or even the Philippines.⁸⁵² Additionally, the Spanish Law for the Organization of the Judicial System of 1870 forbade functionaries to simultaneously practice as lawyers. Consequently, forty-one lawyers abandoned the *Colegio* of Havana by 1895, and assumed positions as judges, *promotores fiscales*, notaries or registers of

⁸⁴⁹ Colegio de Abogados de la Habana, *Estatutos para el regimen del Colegio de Abogados de la Habana*, (Imprenta del Aviador Comercial, San Ignacio 27, 1879), 3.

⁸⁵⁰ The concentration of large number of separations on specific dates implies that the board did not meet for this purpose very often and rather accumulated the work for large meetings. Yet, the records show that the largest majority of *colegiados* requested the cancellation of their memberships by themselves.

⁸⁵¹ Register of the *Colegio de Abogados* in Havana, ANC.

⁸⁵² The Register of the Colegio de Abogados does not include the date when 40 members finished their membership, although it shows that they abandoned the organization. Hence, this number only includes those who had a confirmed date of *baja* by 1895.

property.⁸⁵³ Conversely, the registry of *colegiados* from Havana in 1890 included a list of 32 lawyers who were still members but were not practicing at that moment.⁸⁵⁴

Lawyers from Havana between 1879 and 1895 also abandoned the legal field and developed other professional activities. At least eleven lawyers pursued political careers in Cuba and Spain as local representatives or *diputados* in the Spanish Cortes. Moving to Madrid to sit in the Spanish Cortes affected the requirement of *vecindad* as well as the possibility to practice as lawyers, which were the cases of Antonio Batanero Montenegro and Antonio Vázquez Queipo.⁸⁵⁵ Other *letrados* took different professional paths including as many diverse fields as teaching, art, and estate administration.⁸⁵⁶ Although traditionally lawyers had also involved in all those intellectual and economic activities while also practicing in the legal field, the diversity of professional alternatives confirmed the variety of interests of *colegiados*.

In contrast to the massive separations in 1885 and 1887, the Register of the *Colegio* does not show too many disciplinary sanctions applied to its members for a lapse of approximately twenty years. By 1895, the book only refers to a pecuniary sanction of 25 pesetas applied to Andrés María Meireles Hernández, a lawyer who even held a position

⁸⁵³ ANC Register of the Colegio de Abogados.

⁸⁵⁴ BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 35 – 36.

⁸⁵⁵ Other similar cases were Basilio A. Díaz del Villar, Federico Leal Marugán, Manuel Martínez Aguiar, Gonzalo Pelligero Serrano, Joaquín Santos Ecay, Dionisio Tellechea Valdés, and Miguel Villanueva Gómez.

⁸⁵⁶ ANC Register of the *Colegio de Abogados*. Statistics formed based on the data from the entries in this book. Santiago Cancio Bello, Manuel Valdés Rodríguez, Manuel Antonio Romero Menéndez, Antonio Rojo Sojo, Luis Irio Bauza worked as teachers; Francisco Camilo Cuyás became director of the Cuban Painting Institute San Alejandro. There were also intellectuals such as Enrique Piñeiro Ramy, Vidal Morales Morales, Aurelio Piedra and the poet Francisco Más Otzet. Finally, other two lawyers focused on managing their sugar plantations: José Manuel Lopez Silvero Veitia, and Elpidio Evaristo Cosío Marín.

within the Board of the *Colegio* in 1886, although it does not state the reason.⁸⁵⁷ Hence, it appears that the *Colegio* disciplined its members at a very low rate, which could imply that members actually behaved in an ethical manner, that evidence of misconduct was hard to get or that the Board was not as strict as needed. In any case, lawyers from Havana built a positive reputation that resulted in the official and public recognition of their professional association, a prestige ratified by the Crown and its followers on the island.

In 1886, the Regent Queen María Cristina called the *Colegio de Abogados* “Illustrious,” which seemed to be a title commonly bestowed on *Colegios* to remark the honorability of its members while assuming their loyalty to Spain.⁸⁵⁸ This title was granted based on “the *Colegio*’s good organization, exact compliance with its statutes and the distinguished works made by its members in the Board as well as the forum, elevated for this reason to respectable consideration.”⁸⁵⁹ The idea of honor and decorum of the *Colegio* not only involved the professional behavior of its members, but also the positive public image and reputation that the colonial government attributed to it. Article 6 of the *estatutes* of the *Colegio* in Havana established that the *Colegio* would be publicly represented by its Board, whose members would attend the opening of the *Audiencia* and would seat after the judges of first instance. The Dean would enjoy of the same conditions and honors of the members of the *Audiencia* and would occupy the position between the last magistrate and

⁸⁵⁷ ANC Register of the *Colegio de Abogados*.

⁸⁵⁸ AHN TORRELAGUNA, C.299. Collection of legal documents containing, among others, the Royal Order bestowing the title of “Illustrious” to the *Colegio de Abogados* of Havana.

⁸⁵⁹ BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 6. “(...) teniendo en cuenta su buena organización, exacto cumplimiento de sus estatutos y los distinguidos trabajos prestados por sus individuos en la Junta Directiva como en el foro, elevado por esta causa a respetable consideración.”

the first judge of first instance in public events. If the same person was elected three consecutive times as Dean, he would receive the honors of magistrate personally, with the only condition to take an oath as a Spanish official of the *Ministerio de Ultramar*.⁸⁶⁰ The statutes conceived a Dean loyal to Spain and politically associated with the Spanish regime that would also be a member of the Cuban public sphere.

Between 1879 and 1894, the *Colegio de Abogados* had five Deans.⁸⁶¹ Each had a three-year tenure, and was a prestigious member of the local legal community, being selected not for his lineage but elected by his peers upon the basis of merits. Additionally, all of them were born in Cuba, a departure from the traditional *peninsular* Dean, still embodied in Francisco Loriga as late as 1878. Besides the aforementioned González Llorente, Berriel, and Carbonell, there were two other Deans. José Bruzón García was born in Havana in 1841 and, upon graduation in 1864, established his law firm and worked as an attorney during the war, being supportive of the Spanish regime all along.⁸⁶² Hernández Abreu was also born in Havana in 1823, and upon graduation in 1843 worked in that city as an attorney until 1869 when, by contrast to Bruzón, he was sent to the Isla de Pinos for

⁸⁶⁰ BNC *Estatutos para el regimen del Colegio de Abogados de la Habana*, 5 - 6.

⁸⁶¹ They were Pedro González Llorente (1879 – 1882), José Bruzón García (1883 – 1885), Leopoldo Berriel Fernández (1886 – 1888), José María Carbonell Ruiz (1889 – 1891), and José Hernández Abreu (1892 – 1894). BNC *Lista de los Abogados del Ilustre Colegio de la Habana* (Imprenta La Australia, Havana, 1897), 5.

⁸⁶² *Guias de Forasteros*, 1864 – 81. He was related to the Spanish official José Bruzón Rodríguez, important member of the colonial establishment during the first half of the nineteenth century.

his involvement in the separatist conspiracies of 1871.⁸⁶³ By the moment Hernández Abreu became Dean, however, he had turned autonomist and abandoned his separatists ideas.⁸⁶⁴

Despite the pro-Spanish inclinations of the leaders of the *Colegio* and the *Círculo de Abogados* in Havana, *colegiados* were very diverse in their political views. Among its initial members, the *Colegio* included at least twenty *infidentes* who had been involved in the conspiracies against Spain during the Ten Years War, and twenty-two *peninsulares* who did not want the independence of Cuba and had remained in official positions within the colonial government during the war. In addition, other ninety creoles joined the organization splitting between autonomists that promoted the establishment of a local government in Cuba, and loyalists who wanted Cuba to remain a complete dependency to Madrid.⁸⁶⁵ The *Colegio*, hence, showed the complexity of late colonial Cuban society were multiple political opinions clashed with one another.

Following the *Colegio* in Havana, similar institutions also resurfaced in Cuban provinces after the war. Most *Colegios de Abogados* had been closed or dissolved as centers of conspiracy against Spain, but they reappeared in towns such as Matanzas, Cienfuegos and Puerto Príncipe during the 1880s.⁸⁶⁶ The *Colegio* of Santiago de Cuba exceptionally did not close after 1868, and it remained in operations uninterruptedly.

⁸⁶³ ANC Libro de Registros del *Colegio de Abogados* de la Habana; AHN ULTRAMAR 4412 Exp. 25 File of the prosecution of Hernandez Abreu for *infidencia*.

⁸⁶⁴ Junta Central del Partido Liberal Autonomista, April 4th, 1895 in Marta Bizcarrondo, *El Problema Colonial Contemporáneo* (Universidad de Oviedo, 1998), 297.

⁸⁶⁵ ANC Libro de Registros del Colegio de Abogados de la Habana, in cross-references with biographical information found in the Archives and other primary sources.

⁸⁶⁶ BNC, *Ilustre Colegio de Abogados de Puerto Príncipe*, 1889; Estatutos del *Colegio de Abogados* de Matanzas, Imprenta y Librería Galería Literaria, Ricla 41, Habana, 1892.

During the last decades of the nineteenth century however, the *Guías de Forasteros* omitted provincial *Colegios*, while their membership was considerably lower in contrast to the Havana's one. In 1889, for example, while the one in Havana had 452, the *Colegio* of Puerto Príncipe had 23 members.⁸⁶⁷

The membership of provincial *Colegios* was as complex and diverse as that of the *Colegio* in Havana. Puerto Príncipe, for example, gathered lawyers opposed to independence such as Dean Agustín Betancourt Ronquillo, and members who, by contrast, participated of the conspiracies and suffered the confiscations of their properties, like Treasurer José Guzmán Ramas.⁸⁶⁸ Alongside with political differences, two generations of lawyers coexisted in Puerto Príncipe: twelve lawyers that had practiced before 1868, and other eleven who incorporated after the signature of the peace in 1878. It is unclear, however, whether the average political views of the younger members were conservative or progressive. At least it was certain that most members were part of the colonial establishment when only 11 *colegiados* worked as lawyers with *estudio abierto* and the rest held public positions within the government or the judiciary.⁸⁶⁹

Following the *estatutes* of the *Colegio* of Havana, notions of professional honor and decorum inspired provincial *Colegios*. Matanzas, for example, reproduced the idea of this institution as overseer of legal practice within its jurisdiction based on “the decorum,

⁸⁶⁷ BNC, *Ilustre Colegio de Abogados de Puerto Príncipe*, 1889.

⁸⁶⁸ AHN ULTRAMAR, 4759, Exp. 52. File containing request of the Capitan General of Cuba for collection of debts against Agustín Betancourt Ronquillo caused by damages to his property during the war; and AHN ULTRAMAR, 4346, Exp.15, Order for the confiscation of properties for infidencia of Jose Guzman Ramas.

⁸⁶⁹ BNC, *Ilustre Colegio de Abogados de Puerto Príncipe*, 1889.

the fraternity and discipline of the *colegiados*.”⁸⁷⁰ In several sections, the statutes of Matanzas affirmed the disciplinary role of the *Colegio* over lawyers and how its Board would prevent their misconduct based on the scrutiny of their decorum and respect for the law. Once again, obedience to the law implied acceptance of the *status quo* and, therefore, the Spanish control over the island.⁸⁷¹

The statutes of the *Colegio de Abogados* of Havana in 1879 reflected the hybrid embrace of ideals of progress and conservatism by Cuban society during the post-war era. They showed modernity by the elimination of pre-liberal ideals such as seniority and *limpieza de sangre*, while preserving traditional corporatist mechanisms of control by enforcing the inscription in the *Colegio* as a condition to professional practice. The association between legality, decorum and discipline, in turn, forced lawyers to follow the established order and defend the *status quo*. This new order included a completely revised set of Spanish laws that the metropolis applied to Cuba in its new condition as *ultramar* province. This transformation of the legal system was only one of the components of the liberal claims that requested the same treatment for *peninsulares* and those living on the island. As part of the same Spanish policy, other elements of the liberal agenda materialized in the aftermath of the war, and that included the formation of local political parties and the organization of local elections.

⁸⁷⁰ BNC, Estatutos del Colegio de Abogados de Matanzas (Habana, 1892), 3.

⁸⁷¹ See articles and sections of the Estatutos del Colegio de Abogados de Matanzas, Imprenta y Librería Galería Literaria, Riela 41, Habana, 1892.

Implementing the Liberal Agenda: Lawyers, Political Parties and Elections

After signature of the peace agreement in 1878, Spain allowed the establishment of political parties on the island.⁸⁷² Captain General Arsenio Martínez Campos defended the idea to turn Cuba into a Spanish province rather than a colony. In his words: “if Cuba is little to be independent, it is more than enough to be a Spanish province.”⁸⁷³ Martínez Campos included his request in a letter to Spanish Prime Minister Antonio Cánovas del Castillo explaining the reasons for the Cuban uprising and the necessity to grant *naturales* from the island political rights. He argues: “the series of bad employees should not come [to Cuba], all of them [are] from the [Iberian] Peninsula; [we] should give participation to the children of the country.”⁸⁷⁴ Consequently, Spanish government provided creoles access to elective local public positions.

Some Creoles, including lawyers, celebrated the creation of political associations, and the opportunity to have local elections. Raimundo Cabrera, prestigious Creole liberal lawyer and historian, for example, expressed: “The real triumph of the revolution was to allow the establishment of political parties on the island of Cuba.”⁸⁷⁵ As Cabrera, most liberals supported the implementation of these reforms in Cuba, while conservatives remained reluctant and opposed to them. Since Martínez Campos identified himself as a

⁸⁷² Inés Roldán de Montaud, *La restauración en Cuba: el fracaso de un proceso reformista* (Consejo Superior de Investigaciones Científicas, Madrid, 2000), 121.

⁸⁷³ Letter from Martínez Campos to the Spanish President of the Council of Ministries Antonio Cánovas del Castillo on March 19th, 1878. This letter is included in Emilio Augusto Soulere, *Historia de la Insurrección de Cuba (1869 – 1979)* (J. Pons, 1880), 707.

⁸⁷⁴ Ibid. “y que no venga esa serie de malos empleados, todos de la Península; que se de participación a los hijos del país, que los destinos sean estables.”

⁸⁷⁵ See quote of Raimundo Cabrera, *Los partidos coloniales* (El Siglo, La Habana, 1914), 41 in Roldan de Montaud, 125. “El verdadero triunfo, el gran triunfo de la revolución fue haber hecho posible el establecimiento legal en la isla de Cuba de los partidos políticos (...)”

conservative, *peninsulares* in Havana hoped that he would change his policy supporting the liberal reforms granting rights of association, reunion and freedom of the press to creoles.⁸⁷⁶ Thus, upon his arrival as Captain General on June 8th, 1878, *peninsulares* invited Martínez Campos to the Spanish Casino, which was a well-known center of association and political lobby for loyalists.⁸⁷⁷ The Dean of the lawyers in Havana at that time, Francisco Loriga Taboada, was *vocal* of the Board of the Casino, and one of the organizers of this visit.⁸⁷⁸ Despite the efforts of *peninsulares* to persuade Martínez Campos, he kept his strategy and became instrumental in the implementation of the liberal reform on the island. As he had expressed in the letter to the Spanish Prime Minister earlier that year: “I am less liberal than you are, and I deplore certain liberties, but the time demands them.”⁸⁷⁹ Thus, he pursued his policy and favored the formation of local political parties in Cuba.

The Liberal Party was the first political organization legally established in Cuba. The political thinking that supported this organization was not new, since liberal ideas existed in Cuba throughout the nineteenth century, for instance, in the moderate figure of Francisco de Arango y Parreño and his proposals of reform in 1808.⁸⁸⁰ Seventy years later, however, liberal thinking had evolved, especially after ten years of war against Spain. Hence, shortly

⁸⁷⁶ Roldan de Montaud, 126.

⁸⁷⁷ In reference to Spanish Casinos in Cuba as promoters of loyalty to Spain, see David Sartorius, *Ever Faithful: Race, Loyalty, and the Ends of Empire in Spanish Cuba* (Duke University Press, 2013), 122.

⁸⁷⁸ Roldan de Montaud, 141.

⁸⁷⁹ Letter from Martínez Campos to the Spanish President of the Council of Ministries Antonio Canovas del Castillo on March 19th, 1878. This letter is included in Emilio Augusto Soulere, *Historia de la Insurreccion de Cuba (1869 – 1979)* (J. Pons, 1880), 707. “yo soy menos liberal que ustedes, y deploro ciertas libertades, pero la época las exige.”

⁸⁸⁰ Arango y Parreño, Francisco de, *Discurso sobre la agricultura en la Habana y los medios para fomentarla*, in Isabel Monal and Olivia Miranda, *Pensamiento Cubano siglo XIX*, Editorial de Ciencias Sociales, La Habana, 2002.

after the return of Martínez Campos to Cuba as Captain General in 1878, local liberals started using the recently granted guarantees of propaganda and political opinion. On July 1st, 1878, the *peninsular* lawyer Manuel Pérez de Molina, who had moved from conservative to liberal ideas, published the first issue of *El Triunfo*, a liberal newspaper conceived to oversee Spanish government's fulfillment of the peace terms of El Zanjón.⁸⁸¹ *El Triunfo* divided in three sections representing the three major components of the future Liberal Party: social, economic and politic reforms.⁸⁸²

Pérez de Molina, who was born in Andalucía and established in Cuba as a lawyer and journalist, gathered with his followers in the headquarters of *El Triunfo* on August 1st, 1878 to write the basis of the Liberal Program.⁸⁸³ On the social aspect, liberals promoted the gradual and indemnified emancipation of slaves, regulation of the work and mobility of *libertos* and the promotion of immigration of white families to Cuba. On the political field, they claimed equal rights for Cubans and *peninsulares*, including political participation and their right to occupy public positions, as well as the enforcement in Cuba of laws and codes current in Spain. Finally, regarding the economy of the island, liberals proposed a tax and fiscal reform, reduction of the Spanish control over Cuban trade, and the signature of commercial agreements with other countries, especially the United States.⁸⁸⁴

⁸⁸¹ Roldan de Montaud, 126.

⁸⁸² Enrique Pérez Cisneros, *El Reformismo Español en Cuba* (Editorial Verdum, 2002), 57 - 59.

⁸⁸³ Roldan de Montaud, 126; and Max Henriquez Ureña, *Panorama histórico de la literatura cubana*, Vol. 2 (Editorial Arte y Literatura, 1979), 11.

⁸⁸⁴ Platform of the Liberal Party of the Island of Cuba in Raimundo Cabrera, *Cuba and the Cubans* (The Levytype Co., Philadelphia, 1896), 125 – 126; and Louis Perez, *Cuba between Empires (1878 – 1902)* (University of Pittsburgh Press, 1983), 7.

Along with Manuel Pérez de Molina, other lawyers participated in the drafting on the first Liberal Program.⁸⁸⁵ Four other prestigious lawyers attended this initial meeting: José María Gálvez Alfonso, José Eugenio Bernal, Carlos María Saladrigas Domínguez, and Antonio Govín Torres.⁸⁸⁶ Coincidentally, these lawyers used to work together since the late 1860s, proving the formation of the Liberal Party that politics continued going hand-to-hand with the professional network of legal professionals in the island.⁸⁸⁷ Gálvez was a member of the liberal movement in Havana who, being prosecuted for conspiracy after the uprising of 1868, went into exile in the United States and joined the *Junta Revolucionaria* in New York.⁸⁸⁸ Bernal was a renowned lawyer in Havana, who delivered lectures at the *Círculo de Abogados*, and also spread liberal ideas through his *Academia El Salvador*.⁸⁸⁹ Govín, along the same lines, taught at the *Círculo de Abogados* in Havana, and was the

⁸⁸⁵ For the list of the thirteen liberals who signed the basis of the program see Raimundo Cabrera, *Cuba and the Cubans* (The Levytype Co., Philadelphia, 1896), 127. They were José María Gálvez, Juan Spotorno, Carlos Saladrigas, Francisco P. Gay, Miguel Bravo Sentis, Ricardo del Monte, Juan Bruno Zayas, José Eugenio Bernal, Joaquín G. Lebrede, Pedro Armenteros, Emilio L. Luaces, Antonio Govín, and Manuel Pérez de Molina.

⁸⁸⁶ For Carlos Saladrigas see Manuel Sanguily, *Los Oradores de Cuba*, *Revista de Cuba: Periódico Mensual de Ciencias, Filosofía, Literatura y Bellas Artes*, Vol. 4 (Soler, Alvarez and Co. Ed., 1886), 33; and for José Eugenio Bernal and Antonio Govín Torres as professors of the *Círculo de Abogados* see *Círculo de Abogados de la Habana, Certamen del Círculo de Abogados de la Habana, 1880* (Imprenta Militar de la Viuda de Soler y Compañía, 1880), 69.

⁸⁸⁷ AHN ULTRAMAR, 4379, Exp. 5 Judicial file for summary procedure against José M. Gálvez for conspiracy. When he was asked for the lawyers he used to work with, he mentioned José Hernández Abreu, Carlos Saladrigas, Federico Martínez, and Benito Bermudez, Vicepresident of the *Círculo de Abogados* in 1878, among others.

⁸⁸⁸ AHN ULTRAMAR, 4351, Exp. 4 José M. Gálvez requests pardon for his sanction of prison in Isla de Pinos, which is granted in 1870, before leaving for the United States.

⁸⁸⁹ Manuel Sanguily, *Los Oradores de Cuba*, *Revista de Cuba: Periódico Mensual de Ciencias, Filosofía, Literatura y Bellas Artes*, Vol. 4 (Soler, Alvarez and Co. Ed., 1886), 34. He also published in the liberal magazine *Revista de Cuba* articles such as “Parents and Children of the Nineteenth Century.” The nature of this Colegio is unknown, but is mentioned in this issue of *Revista de Cuba* and how Bernal and his colleagues met in this institution.

director of the General Magazine of Law and Administration of Havana since 1879.⁸⁹⁰ This group comprised three lawyers from Matanzas and one from Havana, Bernal; as Galvez and Saladrigas were about the same age having born in 1834 and 1835, respectively, and having attending the University of Havana at the same time, during the mid-1855, the years following the short existence of the *Colegio de Abogados* in Havana in 1852. Hence, lawyers well recognized within the legal community established the Liberal Party.

The Liberal Party rapidly spread across the island incorporating local groups and lawyers nationwide. Among the lawyers that joined the association were some who eventually became leaders of the party: Eliseo Giberga, Rafael Fernández de Castro, and Rafael Montoro.⁸⁹¹ Giberga was from Matanzas and studied at the Universidad Central in Madrid and the University of Havana, graduating in 1873, when returned to the island to work as an attorney, right in the middle of the ongoing war.⁸⁹² Fernández de Castro studied at the School of Law of the Universidad Central in Madrid in 1877, and returned to Cuba when the war was coming to an end, in 1878. He soon became Professor of World History at the University of Havana.⁸⁹³ Montoro, a younger person, graduated at the University of Havana in 1884, and dedicated most of his life to politics becoming the ideological leader

⁸⁹⁰ On this regard, see Antonio Govín, *El enjuiciamiento civil en Cuba y Puerto Rico*, M. Alorda, 1886.

⁸⁹¹ Raimundo Cabrera, *Cuba y América: Revista Ilustrada*, Vol. 21, Issues 1 – 27, (Havana, 1906), 121.

⁸⁹² AHN UNIVERSIDADES, 6556, EXP. 4. Academic file of Eliseo Giberga regarding to his studies in the Universidad Central in Madrid, and the University of Havana.

⁸⁹³ ANC Register of the Colegio de Abogados of Havana; AHN ULTRAMAR, 113, Exp. 19 Provision of the Chair of World History at the University of Havana in favor of Rafael Fernandez de Castro in 1882; AHN ULTRAMAR, 168, Exp. 12 Personal file of the professor of World History at the University of Havana Rafael Fernandez de Castro (1884 – 1893); and AHN ULTRAMAR, 168, Exp. 13 Appointment of Rafael Fernandez as professor of World History of the University of Havana in 1891.

of the Liberal Party.⁸⁹⁴ Thus, mostly young lawyers fueled the Liberal Party in the provinces.

The liberal group also included lawyers José Antonio Cortina Sotolongo and Raimundo Cabrera. Cortina was born in Guamutas, close to Matanzas, in 1853, and was one of the most educated members of the Cuban liberal elite. He studied law at the Universidad Central in Madrid, and finished two Doctorates, one in law in Barcelona and other in Philosophy and Arts in the University of Havana.⁸⁹⁵ A great intellectual, Cortina did not engage in the war, but was a vehement liberal involving in strong abolitionist campaigns in Spain and Cuba.⁸⁹⁶ Since 1878, Cortina participated of the *Círculo de Abogados*, and one of his most important contributions was the creation of the *Revista de Cuba*, a liberal publication. This magazine was so important and influential among liberals that after Cortina's untimely death in 1884, one of the tributes to him stated: "Cortina left to the country, as heritage of his heart, the glorious monument of *Revista de Cuba*."⁸⁹⁷ Raimundo

⁸⁹⁴ AHN ULTRAMAR, 145, Exp. 33 Academic file of recognition of studies of Rafael Montoro transferring credits from courses he took in Spain to the University of Havana to graduate from the School of Law 1882 – 84; and Louis Pérez, *Liberalism in Cuba: Between Reaction and Revolution (1878 – 1898)*, in Vicente Peloso and Barbara Tenenbaum, *Liberal Politics and Power: State Formation in Nineteenth Century Latin America* (University of Georgia Press, 1996), 271.

⁸⁹⁵ AHN UNIVERSIDADES, 3854, Exp. 15 Academic file of Jose Antonio Cortina Sotolongo as student of law at the Universidad Central in Madrid; and AHN ULTRAMAR, 150, Exp. 12. Academic file of Jose A. Cortina to receive the Doctorate in Philosophy and Arts from the University of Havana in 1882; Ángela del Valle and Angela del Valle López, *Relaciones España-Cuba en la enseñanza superior e influjo social de los cubanos graduados en la Universidad Central (1842-1898)*, (Universidad Complutense de Madrid, 2002), 15; Aurora Miguel Alonso y Alberto Raya Rienda, *La coleccion de tesis doctorales de derecho en la Universidad Central*, Universidad Complutense de Madrid, Cuadernos del Instituto Antonio de Nebrija, 13 (2010), 61; and Homenaje de la prensa. *Flores y lágrimas, Corona fúnebre literaria en honor del ilustre cubano, Don José Antonio Cortina: Biografía*. (Impr. "La Primera de papel", 1884), viii.

⁸⁹⁶ AHN ULTRAMAR, 4884, Exp. 2 General file for the abolition of slavery containing J.A. Cortina's request to create a filial of the Spanish Abolitionist Society in Cuba in 1882.

⁸⁹⁷ *El Pedestal del Patriota*, November 17th, Compilation of Agustín M. Domínguez, Homenaje de la prensa, *Flores y lágrimas, Corona fúnebre literaria en honor del ilustre cubano, Don José Antonio Cortina:*

Cabrera Bosch was also a prestigious intellectual. While trying to flee Cuba in 1869, Cabrera was captured and sent into exile to Spain where he graduated with a law degree at the University of Seville in 1873. Upon his return, he tried to teach in secondary schools; but his request was denied because of his young age.⁸⁹⁸ After 1878, Carrera became a successful attorney; but he also was a remarkable historian. His most important work was “Cuba and the Cubans,” a survey of the history of Cuba with mini-biographies of some notable creoles, especially fellow liberals.⁸⁹⁹

A second political party emerged from the meeting held to write the program of the Liberal Party in August 1st, 1878. Some participants disagreed with those drafting the basis of the new party and created a new political organization, the National Liberal Party, on August 2nd, 1878. This political party focused on the defense of Cuban national identity and local values with respect to Spain.⁹⁰⁰ Among the founders of the National Liberal Party there were two lawyers from Havana: Francisco de la Cerra and Miguel Figueroa García.⁹⁰¹ De la Cerra promoted the modernization of the educational system on the island during the war.⁹⁰² Figueroa, on the other hand, had more radical ideas than De la Cerra, engaging in

Biografía. (Impr. "La Primera de papel", 1884), 35. “Cortina deja la patria, como herencia de su corazon, el monumento glorioso de la Revista de Cuba.”

⁸⁹⁸ AHN ULTRAMAR, 148, Exp. 6 Request to teach in secondary school in Havana of Raimundo Cabrera. It was denied because of his age. Cabrera was born in 1852, and probably around twenty-one years old when he applied. The law required a minimum of 24 years of age to teach in Secondary Schools in Cuba.

⁸⁹⁹ Raymundo Cabrera, *Cuba and the Cubans*, Levytype Company, Philadelphia, 1896.

⁹⁰⁰ Roldán de Montaud, 127.

⁹⁰¹ The main founder was José Román Leal, but there is no record that he was a lawyer, or a legal professional of any kind.

⁹⁰² AHN ULTRAMAR, 142, Exp.14. Francisco de la Cerra and José Belén Guitart’s letter to the President of the Cuban Executive requesting the incorporation of Academy Cristóbal Colón to the Institute of Havana in 1874.

conspiracies against Spain and publishing the liberal newspaper *El Farol* in 1869. For this reason, Figueroa was sent into exile to Madrid, where he graduated of law, returning to Havana in 1873, while the war raged, to work as an attorney.⁹⁰³ The National Liberal Party had its own newspaper, *La Legalidad*, which represented the interests of this nationalist group and, during its short existence, maintained a good reputation among liberal groups in Havana.⁹⁰⁴ The National Liberal Party, however, dissolved after the first elections in 1880 and its membership rapidly got dispersed joining other political parties on the island.⁹⁰⁵

Shortly after the formation of the two initial liberal parties, on August 12th, 1878 another small political association split from the original Liberal Party led by Pérez de Molina: the Democratic Liberal Party. Unlike the National Liberal Party, they did not seek a nationalist agenda, but the legal equality between creoles and *peninsulares*. The Democratic Liberal Party had a radical program that requested the immediate recognition of political and civil rights to Cubans such as free trade and banking, secular education, reduction of taxes and the immediate abolition of slavery, among others.⁹⁰⁶ The two leaders of this party were also lawyers: Adolfo Márquez Sterling and Nicolás Azcárate Escobedo.⁹⁰⁷ Márquez opened his law firm in Havana in 1857, and joined the separatist

⁹⁰³ Jorge Mañach, José M. Pérez Cabrera and Tomás Juan de Justíz y del Valle, *Miguel Figueroa, 1851-1893: discurso leído el 6 de julio de 1943, en conmemoración del cincuentenario de su muerte*, Vol. 119 - 121 (El Siglo XX, Habana, 1943), 8.

⁹⁰⁴ Emilio Augusto Soulere, *Historia de la Insurrección de Cuba (1869 – 1979)* (J. Pons, 1880), 665.

⁹⁰⁵ Roldan de Montaud, 132.

⁹⁰⁶ *Ibid*, 132.

⁹⁰⁷ Pérez Cisneros, 63.

conspiracies leaving Cuba for Peru at the beginning of the war, when the Cuban Republic in Arms appointed him as delegate in this country.⁹⁰⁸ Azcárate was known since the 1860s as promoter of a reformist agenda, especially through his *Revista de Legislación y Jurisprudencia*.⁹⁰⁹ The Democratic Liberal Party also had its own newspapers, *La Libertad* in 1878 and *La Discusión* in 1879, which facilitated the spread of radical liberal propaganda in Havana.⁹¹⁰ The founder of this party, Márquez Sterling, eventually opposed to any other solution but the total independence of Cuba from Spain.⁹¹¹ The membership of the party, however, was limited and it dissolved after the first elections.⁹¹² Yet, its newspaper *La Discusión* continued circulating by 1885.⁹¹³

After Cuban liberals formed their political associations, *peninsulares* also decided to create their own party. Conservative groups already had a form of political association around the Corps of Voluntaries known as *partido español*. On August 16th, 1878, however, conservatives from Havana called for the formation of an actual political party

⁹⁰⁸ AHN ULTRAMAR, 1705, Exp. 4. Request of Adolfo Marquez Sterling to practice as a lawyer in Havana; Rene Lufriu Alonso, *Manuel Marquez Sterling: escritor y ciudadano*, Imp. El Siglo XX, A. Muñiz, 1938; Rafael E. Tarrago, *José Martí and the Cult of the Recourse to Violence in Cuba*, in Mauricio Augusto Fonts and Alfonso W. Quiroz, *The Cuban Republic and José Martí: Reception and Use of a National Symbol* (Lexington Books, 2006), 62; Miguel A. Sánchez, *José Raúl Capablanca: A Chess Biography* (McFarland, 2015), 509 FN 14.

⁹⁰⁹ AHN ULTRAMAR 4646, Exp. 15, File containing the request and other documents related to the authorization to publish the *Revista de Jurisprudencia* in Cuba in 1856.

⁹¹⁰ Imilcy Balboa Navarro, *La Protesta Rural en Cuba, Resistencia cotidiana, bandolerismo y revolución (1878 – 1902)* (Ed. CSIC, 2003), 17 FN 7.

⁹¹¹ Philip S. Foner, ed., *José Martí: On Art and Literature: Critical Writings* (Monthly Review Press, New York and London, 1982), 337. The passage mentions that Martí honored Adolfo Márquez Sterling and other voices opposed to Autonomism as an alternative to the independence of Cuba.

⁹¹² Roldán de Montaud, 132.

⁹¹³ See Balboa Navarro, 17 FN 7; and Roldán de Montaud, 132. Both authors mentions that after 1879 the Democratic Liberal Party tried to reorganize and used the newspaper *La Discusion* as their mean of propaganda. Balboa states that this happened in 1885, while Roldan does not provide a specific date.

that represented the interests of *peninsulares* in Cuba. On August 23rd, 1878, therefore, one hundred and forty people met at the house of José Eugenio Moré, wealthy peninsular living in Havana, to create the basis of the party.⁹¹⁴ After considering other denominations such as *Partido Español* or *Partido Peninsular*, the conservative party chose the name of *Unión Constitucional* (Constitutional Union). The newspapers that served for conservative's propaganda were *El Diario de la Marina* and *La Voz de Cuba*.

Seven lawyers participated in the foundation of the conservative party *Unión Constitucional*: Ramón Armas Saenz, Francisco Loriga Taboada, Antonio Batanero Montenegro, Gonzalo Jorrín Moliner, Francisco de los Santos Guzmán, Francisco de Armas Céspedes, and Gabriel Forcade de la Fuente. Some of them had a liberal past, such as Ramón Armas Saenz, who turned into one of the most fervent promoters of *Unión Constitucional*, drafted the tenants of the conservative party and served as its first Secretary.⁹¹⁵ Armas's involvement with the Spanish government escalated after the formation of the party, and he was appointed Chief Manager of the Administration of Cuba and Sub-secretary of Ultramar in 1880.⁹¹⁶ Another lawyer previously associated with liberal ideas was Francisco de Armas Céspedes, who had to prove in 1872 that he was not a member of the conspiracy, and became thereafter a defender of Spanish rights over

⁹¹⁴ *Diario de la Marina*, August 24th, 1878, referred by Roldan de Montaud, 132.

⁹¹⁵ Roldan de Montaud, 134 and 141.

⁹¹⁶ AHN ULTRAMAR, 2444, Exp.13. Professional file of Ramón Armas Saenz containing his appointment as *Jefe Supremo* of the Administration and the Royal Decree of June 25th, 1880. He resigned from this position on April 17th of 1884.

Cuba.⁹¹⁷ A third case was the Treasurer of the *Colegio de Abogados* in Havana, Gonzalo Jorrín Moliner, who was born in this city in 1852. His father, José Silverio Jorrín, was sent into exile at the beginning of the war because of his liberal thinking and the young Jorrín's affiliation to the official party might have been also related to intentions to climb socially and politically, in spite of his family's revolutionary antecedents.⁹¹⁸

The rest of the lawyers that participated of the creation of *Unión Constitucional* had a clear conservative past and had traditionally been affiliated with and represented the interests of well to do *peninsulares* in Cuba. Francisco Loriga Taboada, listed as Dean of *Abogados* in Havana in 1878, was born in Galicia and was President of the *Audiencia* at the end of the war. Antonio Batanero Montenegro was born in Madrid in 1832, and had served as Vocal Representative of Spain in the Sub-commission of Arbitration in Havana since 1872.⁹¹⁹ Francisco de los Santos Guzmán Carballedo, born in Seville in 1840 and living in Cuba since 1873 joined the local aristocracy after his marriage with Concepción O'Farrill Montalvo who was daughter of the wealthy land and slave owner José Ricardo O'Farrill.⁹²⁰ He became the main legal advisor of the Spanish Bank on the island.⁹²¹

⁹¹⁷ AHN ULTRAMAR, 4361, Exp. 20 File containing the procedures and investigation questioning if Francisco de Armas Céspedes was *infidente*, after being confused with Francisco Armas Guerra, *vecino* of Nuevitas.

⁹¹⁸ ANC Register of the lawyers of the Colegio de Abogados in Havana, and *Revista de Cuba: periódico mensual de ciencias, derecho, literatura y bellas artes*, Vol. 9 (Tip. de Soler, Álvarez y comp, 1881), 77.

⁹¹⁹ ANC Register of the lawyers of the Colegio de Abogados in Havana, and AHN ULTRAMAR, 4737, Exp. 12 File of constitution of the Sub-Commission of Arbitrage in Havana on October 12, 1872, as a subsidiary of the Hispanic-American Commission of Arbitration established in Washington DC.

⁹²⁰ María José Portela Miguelez, *Redes de poder en Cuba en torno al Partido Unión Constitucional, 1878 – 1898* (Universidad de Cadiz, 2004), 71.

⁹²¹ ANC Register of the lawyers of the Colegio de Abogados in Havana; and AHN ULTRAMAR, 4736, Exp. 1 Request of Francisco de los Santos Guzman to practice as lawyer in Cuba in 1873; and Roldan de Montaud, 141.

Finally, Gabriel Forcade de la Fuente, born in Havana in 1844, had established himself as a lawyer in this city and worked for the colonial government receiving the honorific Order Carlos III as *Comendador Ordinario* in 1871.⁹²²

Subsequently, other notable conservative lawyers joined *Unión Constitucional* such as Fermín Mendiola Miranda González de Ara y Varona.⁹²³ This attorney was born in 1824 and belonged to a traditional *peninsular* family, having attended the Academy for Nobles of Madrid during his childhood.⁹²⁴ His father was Ramón José de Mendiola, a former magistrate of the *Audiencias* of Cuba and Puerto Rico accused of corruption and abuses, and his mother was Catalina de Miranda, both members of the *peninsular* aristocracy in Cuba.⁹²⁵ In spite of the professional scandals of the past, the Mendiola family had prestige among the late Cuban colonial society, and was well received among the ranks of the

⁹²² ANC Register of the lawyers of the Colegio de Abogados in Havana; and AHN ULTRAMAR, 4729, Exp. 6 Act of announcement of Gabriel Forcade de la Fuente as *Comendador* under the Order Carlos III.

⁹²³ Roldan de Montaud, 141.

⁹²⁴ AHN UNIVERSIDADES, 654, Exp. 9. Documents proving the enrollment and liquidation of quotas of FerAHNmín Mendiola and other students in the Royal Seminar of Nobles from Madrid in 1834.

⁹²⁵ AHN UNIVERSIDADES, 667, Exp. 61. Genealogy of the students of the Royal Academy of Nobles from Madrid shows the ancestry of Fermín Mendiola. AGI ULTRAMAR, 25, N. 12 Ramón José Mendiola requests the concession of honors that belonged to his rank and condition as oidor of the Audiencia of Cuba in 1815. AGI ULTRAMAR, 25, N. 16, Ramón José Mendiola requests authorization to marry Catalina de Miranda, and excuse temporarily from his duties in the *Audiencia* of Cuba between 1813 and 1815. AGI ULTRAMAR, 162, N. 37, Announcement of a vacant position in the *Audiencia* of Cuba after transfer of Ramón José Mendiola to the *Audiencia* in Puerto Rico. AGI ULTRAMAR, 49, N. 29, Captain General Dionisio Vives requests authorizations for the return of Ramón José Mendiola to serve in the Audiencia in Cuba in 1832. AGI ULTRAMAR, 31, N. 25 Serapio Martínez, Pablo Betancourt and other neighbors from Puerto Príncipe denounced the abuses they had suffered after decisions issued by Ramón José Mendiola about the ownership of lands in 1818. AGI ULTRAMAR, 35, N. 9 José Manuel de Betancourt, *vecino* from Puerto Príncipe, requested the dismissal of judge Ramón de Mendiola and the government advisor José Zamora because of their abuses and corruption in 1820.

conservative party. Supported by local elites and traditional aristocracy, *Unión Constitucional* emerged with great force and attracted many followers across Cuba.⁹²⁶

Like the liberal side, the conservative group also showed splinter factions, being the most notorious the group led by lawyer Joaquín María Muzquíz Callejas. Born in Havana in 1841 to a military father from Navarra, Muzquíz received an education in Spain.⁹²⁷ Upon his graduation from the School of Law in 1864, Muzquíz remained in Madrid where he worked as an attorney, while pursuing a political career as Secretary of Carlos de Borbón, representative of Navarra in the Spanish Cortes, and finally member of the Spanish Constituent Assembly in 1869.⁹²⁸ Having returned to Cuba by the end of the Ten Years War in 1878, Muzquíz sided with *peninsulares*, although becoming a critic of the conservative party. On August 20th, 1878, for instance, Muzquíz published a Manifesto questioning the program of *Unión Constitucional*. He argued that the conservative stance rather than the condition of *peninsulares* should be the basis for their party since there were liberals in the Iberia Peninsula as well.⁹²⁹ Muzquíz's criticisms unveiled that, even when *Unión Constitucional* opposed certain liberal reforms, it still followed some Spanish liberal ideas. Thus, Muzquíz declared his own group the "true conservative" that would never yield to the rise of liberalism.⁹³⁰ Yet, he wanted tax reform and free trade to promote

⁹²⁶ Roldan de Montaud, 142.

⁹²⁷ AHN UNIVERSIDADES, 4499, Exp. 23 Academic file of Joaquín María Muzquíz Callejas, student of law at the Universidad Central in Madrid, 1858 – 1865.

⁹²⁸ *Los diputados pintados por sus hechos: Colección de estudios biograficos sobre los elegidos por el sufragio universal en las Constituyentes de 1869*, T. II (R. Labrajos y Cia. Editores, 1869), 326 – 327.

⁹²⁹ *La Voz de Cuba*, issue of August 21st, 1878, Manifesto to the inhabitants of the island of Cuba.

⁹³⁰ Roldan de Montaud, 153. As per this author, Muzquíz announced in the newspaper *Patria*: "we give to the winds our conservative flag, the traditional flag known by everybody" also including the motto "God, Fatherland and King."

commerce, ideas that broadly found also support among liberals.⁹³¹ Muzquíz's faction, however, did not last, and dissolved itself shortly after the first municipal elections, as had happened to the smaller liberal parties.⁹³²

The Liberal Party continued operating during the following year and gradually radicalized its demands for a general reform toward an autonomous government for Cuba. On August 2nd, 1878, one of the leaders of the Liberal Party, the abolitionist lawyer Rafael María de Labra, published a Circular that stated: "We ask that the country be governed by itself, the proposal of an autonomous regime as the only practical and saving solution, as we estimate that this is the only regime compatible with the special conditions of the Island of Cuba and with its peculiar needs and interests."⁹³³ By 1879, this political organization changed its name for Autonomic Liberal Party, affirming its determination that Cuba should have its own local government. At the same time, this party preserved the idea that Cuba should remain as a part of the Spanish Empire, a coincidence with the agenda of the conservative party.

As exemplified by Muzquíz's and Labra's positions, the parties *Unión Constitucional* and Autonomic Liberal had different points of view; but shared some commonalities. As a matter of fact, in the opinion of a foreign observer, American Albert Gardner Robinson, no substantial distinctions separated both political parties: "There was comparatively little

⁹³¹ *El Triunfo*, issues of August 28th, 1878, and August 29th, 1879, article "Other conservative flag." See also Roldan de Montaud, 154, FN 149 and 150.

⁹³² Roldan de Montaud, 155.

⁹³³ Circular de la Junta Central del Partido Liberal dated August 2, 1879, in Rafael María de Labra and others, *El problema colonial contemporaneo* (Universidad de Oviedo, 1998), 268; and Perez Cisneros, 59. "Pedimos el gobierno del país por el país, el planteamiento del régimen autonómico como única solución práctica y salvadora, por estimar que el solo régimen compatible con las especiales condiciones de la Isla de Cuba y con la peculiares necesidades e intereses de la misma."

difference in the essence of their respective platforms, but the lines diverged as the situation developed.”⁹³⁴ Robinson also argued: “There was no special difference in what might be called their platforms. Both focused, in a somewhat general way, on the political aspirations and the economic desires of the Cuban people, much the same aspirations and desires that had been manifested by complaint, protest, and national outbreak, for fifty years. National independence had no place in either.”⁹³⁵

The idea that both parties had similar goals was shared by Cubans, and it was expressed by some political leaders such as the liberal lawyer Arturo Amblard who said: “if between these political parties there was a gap in their purposes and procedures, in their political platforms there were no large differences. Both requested the application to Cuba of the Spanish Constitution (...).”⁹³⁶ Even the newspaper *El Triunfo* questioned the originality of the program of *Unión Constitucional* in 1878, and argued that the conservative program did not have anything original, and that its authors had taken a large portion of its platform from the program of the Liberal Party.⁹³⁷ These opinions, coming from liberals, could be considered a political attack to the conservatives; yet, they demonstrated that both parties were not too different since they shared economic goals such as the tax and fiscal reforms oriented to the development of commerce.

The end of the nineteenth century was a period marked by economic growth in Latin America based on the exports of raw materials to Europe and the United States,

⁹³⁴ Albert Garner Robinson, *Cuba, Old and New* (Longmans, Green and Cia., 1915), 176.

⁹³⁵ Robinson, 238

⁹³⁶ Arturo Amblard, *Notas coloniales* (A. Perez y Cia, 1904), 44.

⁹³⁷ *El Triunfo*, December 5th, 1878, “Un programa definitivo I.” See Roldan de Montaud, 149 FN 131.

especially agricultural products. This growth represented an economic boom in the region for countries such as Argentina, Brazil, Chile, Mexico, Colombia and Peru.⁹³⁸ For that reason, a main goal of both political parties was to lift trade restrictions that Cuba still had as a Spanish possession, an obstacle that did not burden the rest of the independent countries of the continent.

With the creation of the political parties and the setting of a local electoral system, the island was ready for its first competitive elections. Municipal and provincial elections took place in December of 1878 and January of 1879, respectively. In both cases, conservative forces mostly won in the West while liberals dominated in the East, with supremacy of representatives of *Unión Constitucional* in public positions nationwide. One of the main reasons for this result was the system of electoral divisions that favored large cities, most of them located in the West and under the control of merchants, bankers, and industrialists, against rural districts that sympathized with the leaders of the liberal party in Central and Eastern Cuba.⁹³⁹ Additionally, a significant lack of representativeness characterized these elections. From 1,190,839 inhabitants, only 31,592 had the right of suffrage, less than 3 percent of the population of the island. By contrast, 17,758 people voted, less than 60 percent of those who could vote in these elections, but still a significant number reflective of creoles' political aspirations and determination.⁹⁴⁰

⁹³⁸ Joseph Love and Nils Jacobsen, *Guiding the Invisible Hand: Economic Liberalism and the State in Latin American History*, Praeger Publisher, New York, 1988; Paul E. Gootenberg, *Between Silver and Guano: Commercial Policy and the State in Post-Independence Peru*, Princeton University Press, 1989; Jeremy Adelman, *Republic of Capital: Buenos Aires and the Legal Transformation of the Atlantic World*, Stanford University Press, 1999.

⁹³⁹ Roldan de Montaud, 158.

⁹⁴⁰ *Ibid*, 157 - 159.

The leadership of the *Colegio de Abogados* of Havana symbolized the political contradictions on the island. In 1880, the Board of the *Colegio* comprised members from both political parties: Dean Pedro González de Llorente, and Deputes Antonio González de Mendoza and the scholar Antonio Prudencio Lopez belonged to *Unión Constitucional*, while three Deputes (José María Carbonell, José María Gálvez Alfonso, Federico Martínez Quintana), the Treasurer José Cárdenas Gassie and the Secretary Vidal Morales Morales militated in the Liberal Party.⁹⁴¹ Although there was representation of both political sides, the largest majority of the members of the Board followed the liberal movement. Even the conservative Dean supported reforms and had represented defendants that were accused of *infidencia* during the war.⁹⁴²

The prevalence of the liberal tendency among the members of the Board of the *Colegio de Abogados* continued during the following decade. In 1890, the Dean José María Carbonell Ruiz and the Secretary Antonio Mesa Domínguez were leaders of the Liberal Party, and Deputes José Hernández Abreu, José Antolín del Cueto Pazos, José María García Montes and Pablo Desvernine Galdós, were members of this political organization as well. Two of them, Hernández and Desvernine, had directly participated of the conspiracies of the Ten Years War and embraced a radical position with other members of the Board and the Party.⁹⁴³ These ideological contradictions among the members of the

⁹⁴¹ BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 9. For members of the Autonomist Party, see *Spanish Rule in Cuba, Laws Governing the Island* (Ministerio de Ultramar, 1896), 49. For Pedro Gonzalez de Llorente, see Roldan de Montaud, 544. For Antonio Gonzalez de Mendoza, see Roldan de Montaud, 155.

⁹⁴² AHN ULTRAMAR 4349 Exp. 12. File of the representation of González Llorente of the family Cantero Izugua for the confiscation of their properties for *infidencia*.

⁹⁴³ BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 4. For members of the Autonomist Party, see *Spanish Rule in Cuba, Laws Governing the Island* (Ministerio de Ultramar, 1896), 49. For Hernandez Abreu, see AHN

Board illustrated the political positions in a Cuba that claimed to be increasingly liberal, while different forms of liberalism manifested. Along with liberal and conservative ideas, other philosophical movements also circulated on the island at this moment, being positivism the most influential of these trends.

Positivism and Juspositivism: Reforms to the Legal System

Positivism developed through the nineteenth century as a philosophical movement. This ideology explained phenomena based on general laws and relying on documented evidence, focusing on practical issues. It influenced scientific, sociological and religious studies, with a tendency to pragmatism. This movement initiated in Europe in figures such as August Comte and John Stuart Mill, and had a broad reception in Latin America in countries such as Mexico, Brazil and Colombia.⁹⁴⁴ Eventually manifestations of positivism started arising in Cuba.

The most important representative of positivism in Cuba was the intellectual Enrique José Varona Pera.⁹⁴⁵ He was born in Puerto Príncipe on April 13th, 1849, and he only received his Doctorate on Philosophy and Letters from the University of Havana during the 1890s, having mostly earned a self-taught education by the end of the war. Although a

ULTRAMAR 4429 Exp. 85, authorization to return to Havana from Isla de Pinos where was sent as political prosecution, ULTRAMAR 4350 Exp. 28, deportation pardon of Hernandez Abreu for political crimes, and ULTRAMAR 4347 Exp. 79, release of seized property belonging to Hernandez Abreu for crime of *infidencia*. For Desvernine see AHN ULTRAMAR 4447 Exp. 42, list of conspirators in 1869, and ULTRAMAR 4446 Exp. 15, Desvernine's request to release seized property after his prosecution.

⁹⁴⁴ For Colombia, see Frank Safford, *El Ideal de lo Práctico: el desafío de formar una élite técnica y empresarial en Colombia*, Empresa Editorial Universidad Nacional, 1989; for Brazil, see Mozart Pereira Soares, *O Positivism no Brasil: 200 anos de Augusto Comte*, Editorial AGE, 1998; for Mexico, see Ignacio Sosa, *El Positivismo en Mexico: Antología*, UNAM, 2005.

⁹⁴⁵ Jorge Rodríguez Beruff, *Cuba en Crisis: Perspectivas Económicas y Políticas* (La Editorial UPR, 1995), 126.

supporter of independentism, Varona joined the local government after 1878 and became representative to the Spanish Cortes in 1885.⁹⁴⁶ At the same time, Varona became a promoter of positivist ideas. In 1878, Varona published “The Positivism,” an article that explained this philosophical movement and the benefits of its implementation in Cuba for the development of the island. He also delivered a series of speeches in favor of positivism, being the most important the one on January 21st, 1883 in Havana that has been published as “About the importance of the Arts.”⁹⁴⁷ In this event, Varona shared scenario with the liberal lawyer Rafael Montoro, another young creole that was born in 1852, and graduated in Havana at the end of the war. Being members of the same generation, both aimed for the technological development of the island, as expression that supported with claims of progress and modernization.⁹⁴⁸

Along with positivism, Cuba also received the influence of iuspositivism, an iusphilosophical movement that focuses on the practical side of the law, separating moral from legislation. This ideology developed from the works of Thomas Hobbes and Jeremy Bentham, and found echoes among legal scholars of Europe and Latin America.⁹⁴⁹ This movement argued the supremacy of the written legislation, and defended its strict

⁹⁴⁶ William Belmont Parker, *Cubans of Today: Hispanic Notes and Monographs*, Hispanic Society of America, Vol. I (G.P. Putnam’s Sons, New York and London, 1919), 199 – 200.

⁹⁴⁷ Pablo Guarderrama and Edel Tussel Oropoeza, *El pensamiento filosófico de Enrique José Varona* (Editorial de Ciencias Sociales, 1987), 102; and Enrique José Varona, *Sobre la importancia del arte*, La Propaganda Literaria, 1883.

⁹⁴⁸ Various authors have documented the ideological and generational match between Montoro and Varona, a lawyer and an intellectual, respectively, including their interest of technological development of the island. See *José Martí and the First Cuban Republicanism* in Rafael Rojas, *Essays in Cuban Intellectual History* (Editorial Springer, 2008), 22; Jaime Suchlicki, *Cuba: Continuity ad Change* (University of Miami, 1985), 30; and Mauricio Augusto Font and Alejandro W. Quiroz, *The Cuban Republic and José Martí: Reception and Use of a National Symbol* (Lexington Brooks, 2006), 17.

⁹⁴⁹ Wayne Morrison, *Jurisprudence: From the Greeks to Post-Modernity* (Editorial Routledge, 2016), 347.

application in spite of other factor that could influence and deem unfair or arbitrary the enforcement of the law under certain circumstances. This idea, on the contrary, affirmed the notions of order that supported positivism, where the absolute respect for the laws would create a more perfect and organized society. This movement aligned with the Cuban claims to have the Spanish codification extended to the island.

The creation of the *Colegio de Abogados* in Havana exemplified the extension of Spanish laws to Cuba as part of the political transformations experienced on the island over the nineteenth century. Since the 1830s, Spain had applied to its overseas territories some laws that initially only ruled the metropolis, in particular some property statutes.⁹⁵⁰ The process to extent Spanish laws continued during the second third of the nineteenth century, focused on specific aspects such as commerce or the prosecution of criminal behaviors.⁹⁵¹ In over 70 years, however, only a few specific *peninsular* laws had application in Cuba.

After the ten-year war, Cuba entered into a period of legal transformations in which Spanish laws became massively enforced on the island. Royal Decree of June 21st, 1878, for example, adopted the Law of Municipalities and Provinces, instrumental in the organization of Cuban electoral system. After 1878, Spain also extended to Cuba laws organizing the judicial system of the island that included notaries, criminal and civil

⁹⁵⁰ Felipe Sánchez Román, *Estudios de derecho civil: según los principios, los precedentes y cuerpos legales del antiguo derecho de Castilla, las leyes civiles generales, las especialidades de las legislaciones forales, la jurisprudencia del Tribunal Supremo y el Código civil é Historia general de la legislación española. Introducción: historia general de la legislación española*, T. I, Vol. 1 (Est. Tip. Sucesores de Rivadeneyra, 1899), 439. One of those cases was the Law of May 16th, 1835 known as *Ley de Bienes Mostrencos*, which declared dispossessed property as owned by the state. On the same lines, the Decree of December 15th, 1841 applied to Cuba the Spanish rules of eminent domain.

⁹⁵¹ Ibid, 441. The first code extended to the island was the Commercial Code of May 30th, 1829, when then King Ferdinand VII issued the Royal Order of February 1st, 1832 enforcing this law to the entire realm. Those were the cases of the application to Cuba in 1832 of the Spanish Commercial Code of 1829, and the laws on banditry that Spain enforced in Cuba during the war.

procedure, and register offices.⁹⁵² In turn, Royal Decree of April 7th, 1881, extended to Cuba the Spanish Constitution of 1876, along with specific regulations concerning rights such as freedom of the press, speech and association.⁹⁵³ The adoption of these freedoms, however, came with restrictions. The Law of Press of 1879, for instance, considered a crime any attack to the Spanish Monarchy.⁹⁵⁴

The enforcement of most of these laws to Cuba brought two main consequences to the local legal system: standardization with respect to Spain, and affirmed the importance of the written laws with respect to any other legal authority. The new laws replaced the remnants of *Derecho Indiano* and did away with dispersed colonial legislation that still applied to the island. They also normalized the format and writing of legal documents that brought professionalization and control at the same time. The application of these laws to overseas provinces appeared as a mechanism to exert authority over Cuba, Puerto Rico, and the Philippines.

The most important laws ultimately enforced on the island were the Spanish Codes. Throughout the nineteenth century, most Latin American countries enacted or adopted

⁹⁵² Sánchez Román, 438 – 440. Since October 29th, 1873, Spain enforced in Cuba the Law of Public Notaries of May 28th, 1862. In the post-war era, Spain also applied to Cuba the Law of Civil Procedure of 1881 by Royal Decree dated September 25th, 1885, and the Law of Criminal Procedure on September 14th, 1882, by Royal Decree dated October 19th, 1888. Spain also organized the Office of the Civil Register and the work of its functionaries following the Spanish model in 1884. As part of the organization and professionalization of the judicial system, Royal Orders of July 16th, 1879, and October 5th, 1889 instructed the redaction of public documents in Cuba.

⁹⁵³ Ibid, 440. See Royal Decree November 1st, 1881, for the Law of Reunions of June 15th, 1880, the Royal Decree June 12, 1881, for the Law of Associations of June 30th, 1887, and the Royal Decree April 7th, 1881, for the Law of Press of 1879.

⁹⁵⁴ Javier Donezar Díez de Ulzurum, *Historia de España Contemporánea* (Silex Editorial, 2007), 121.

Civil Codes as manifestation of their identity and national sovereignty.⁹⁵⁵ After the promulgation of the Civil Code in Costa Rica in 1880, only Cuba and Brazil remained as territories that had not adopted Civil Codes in Latin America. Coincidentally, they were the same two countries that preserved slavery.⁹⁵⁶ This situation changed for Cuba when in 1879 it received the Spanish Criminal Code of 1870, in 1886 the new Commercial Code of 1885, and in 1889 the Spanish Civil Code of the same year.⁹⁵⁷ Thus, Cuba gradually changed its legal foundations by including codification as part of nineteenth-century liberal reforms, while the reception of Spanish regulations in Cuba showed the growing positivist approach of the Cuban legal community. Among those lawyers renown for their positivist approach remarked the liberal Dean of the *Colegio de Abogados* and professor of Legal Procedure José María Carbonell.⁹⁵⁸

Under the influence of iuspositivism, Cuban jurists adapted the legal training to more pragmatic programs. Academic spaces for legal training became centers of education on the law and its application, reducing attention to other moral or philosophical matters such as Natural Law or Philosophy of the Law. One of these centers was the *Círculo de Abogados*, officially created in on January 19th, 1879, and dedicated to the improvement

⁹⁵⁵ Matthew C. Mirow, *Latin American Law: A History of Private Law and Institutions in Spanish America* (University of Texas Press, Austin, 2004), 97.

⁹⁵⁶ Rogelio Pérez Perdomo, *Latin American Lawyers: A historical introduction* (Stanford University Press, 2006), 63. This page contains a chart with the year of the enactment of Civil Codes in Latin American countries in chronological order.

⁹⁵⁷ Sánchez Román, 440 - 441. No other code was applied to Cuba until 1879 when the Royal Decree of May 23rd enforced in the island the Spanish Criminal Code of 1870. To this Code followed the new Commercial Code of August 22nd, 1885, extended to Cuba by the Royal Decree of January 28th, 1886, and the Spanish Civil Code of 1889, enforced in Cuba after the Royal Decree of July 31st of the same year.

⁹⁵⁸ Juan Miguel Dihigo, *Influencia de la Universidad de la Habana en la cultura nacional: discurso inaugural del curso académico de 1924 – 25*, La Propagandista, 1924.

of legal education.⁹⁵⁹ It comprised five sections: Civil Criminal and Canon Law; Political Economy, Commercial, Political and Administrative Law; Civil and Criminal Procedures; History and Philosophy of Law, Comparative Law and Public and Private International Law; and, a last catchall section called Various Sciences (*Ciencias Varias*).⁹⁶⁰ In most cases, the presidents of the sections coincided with scholars from the school of law and the courses they taught.

The order of the sections shows how the courses had been reorganized in observance to iuspositivism. In this new model, the first three sections focuses on practical and codified areas of the law: Constitutional, Civil, Commercial and Criminal Law; and there is only one section for proceedings, a very important component of the iuspositivism because this is the area of the law that regulates how to enforce the rest of the law. Other courses such as Political Economy survived not because of their practical dimension, but probably based on the survival of the liberal spirit that pushed for the establishment of that chair few decades ago. Roman Law, History of the Law, and Philosophy, by contrast, were relegated to the last sections and the events of the *Círculo* showed a higher interest for rather practical matters.

Between 1878 and 1879, the *Círculo de Abogados* offered three courses with public lectures for lawyers in Havana. The first of these courses consisted in a program of Forensic

⁹⁵⁹ BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 39. Its Board consisted of a President, three Vice-presidents, three Vocals, a Treasurer and two Secretaries.

⁹⁶⁰ Each section comprised a President, a Vice-president, a Secretary and a Vice-Secretary. BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 39 - 40. In 1890, the President of the *Círculo* was still the unionist Pedro González de Llorente, while Leopoldo Berriel Fernández, José Antolín del Cueto, José María Carbonell, Juan Bautista Hernández Barreiro, and the same González Llorente led each of the aforementioned sections, respectively.

Oratory by Dr. Eusebio Hipólito Valdés Domínguez.⁹⁶¹ A member of the revolutionary conspiracy in Havana, Valdés Domínguez was sent into exile to Spain where he enrolled in the School of Law in Madrid and graduated in 1873.⁹⁶² Upon returning to Cuba, Valdés Domínguez joined the local legal community and became one of the three lecturers of the *Círculo* that year. Liberal Eliseo Giberga, member of the *Círculo*, praised this course during his introduction of the *Cértamen de Abogados* in 1880, as promoter of the persuasive methods of oratory that lawyers should use in their argumentations, a very practical issue for attorney's works.⁹⁶³

The other two courses of the *Círculo* addressed transformations in the Cuban legal system and, much like the one mentioned above, reflected the practical orientation of training, perhaps as a way to counterbalance the influence of speculative liberal political thinking. As part of the extension of Spanish codes and laws to the island, these lectures prepared creole lawyers for the adoption and application of modern codifications. José Eugenio Bernal offered a course about the mortgage law recently enacted in Spain and extended to Cuba, the *Novísima Legislación Hipotecaria*.⁹⁶⁴ The third course that the *Círculo* offered was on Forensic Medicine delivered by the Doctor in Medicine Felipe Rodríguez.⁹⁶⁵ The study of this legal field was necessary to understand new tendencies in

⁹⁶¹ BNC Círculo de Abogados de la Habana, *Certamen del Círculo de Abogados de la Habana, 1880*, (Imprenta Militar de la Viuda de Soler y Compañía, 1880), 69 – 70.

⁹⁶² AHN ULTRAMAR, 4377, Exp.42; ULTRAMAR, 4768, Exp.48; ULTRAMAR, 4403, Exp.49; ULTRAMAR, 167, Exp.66; ULTRAMAR, 146, Exp.45.

⁹⁶³ BNC Círculo de Abogados de la Habana, *Certamen del Círculo de Abogados de la Habana, 1880*, (Imprenta Militar de la Viuda de Soler y Compañía, 1880), 69.

⁹⁶⁴ Ibid.

⁹⁶⁵ Ibid.

Criminal Law, and modern penal system, after the development of criminological positivism in Europe in the 1870s.⁹⁶⁶ The academic activities of the *Círculo* received recognition and support from the attendants, who said that: “the country and the legal science could base in this institution their hopes.”⁹⁶⁷

After the opening of the *Colegio de Abogados* in Havana in 1879, the *Círculo* remained as its main academic institution and center for vocational training. Within a year, the *Círculo* organized its *Certamen*, a contest on legal themes in which lawyers belonging to the *Colegio* participated. Two speakers addressing rather technical, and most definitely issues likely to generate little political controversy, received gold medals.⁹⁶⁸ This event affirmed the practical non-speculative emphasis of continuing education for lawyers in Cuba at the time.

Directly connected with the faculty of the University, the *Círculo* provided the venue for local scholars to boost their academic careers. Ricardo Dolz Arango, for example, graduated in 1883, and was the Vice-Secretary of the Section of Legal Procedure in 1890, becoming the Chair of Legal Procedure of the University of Havana in 1893, upon

⁹⁶⁶ Yoel Cordovés Nuñez, *Liberalism, Crisis e Independencia en Cuba, 1880 – 1904*, Editorial de Ciencias Sociales, 2003. This study explores some elements of Cuban liberalism, focusing on the anthropological tendencies that were popular during this period.

⁹⁶⁷ *Certamen del Circulo de Abogados de la Habana*, 70. “en él se pueden fundar esperanzas la ciencia y el país.”

⁹⁶⁸The first was the liberal Antonio Govín Torres, who presented two papers: “About the importance of Roman Law for the knowledge of our legislation” and “About the elements that constitute crimes.” In his works, Govín affirmed the foundational role of Roman Law in modern Civil Law system, and approached to contemporary doctrines on crime, both of which found support for their modern perspective and influence. The other speaker, liberal Federico Mora Valdés, spoke about “The nature of *fideicomiso* and its legal effects,” with less social and political impact BNC *Certamen del Circulo de Abogados*, Havana, 1880, index.

death of José María Carbonell.⁹⁶⁹ Another example was Leopoldo Berriel, Chair of Civil Law of the University. In 1882, Berriel became the President of the *Círculo* and, subsequently, he was elected Dean of the *Colegio de Abogados* in 1886, Dean of the School of Law, and President of the University of Havana in 1898.⁹⁷⁰ At the same time, the *Círculo* reinforced the network of lawyers of the capital, and extended the professional connections beyond the limits of the *Colegio*.

The University of Havana also introduced transformations to legal training in Cuba after 1878, reinforcing the apparent trend towards rather technical practical training as opposed to risky political and philosophical speculation. A Royal Decree dated February 24th, 1879 reinstated the Doctorate in Law.⁹⁷¹ On December 7th, 1880, the Spanish government authorized a new plan of studies for Cuba following the design of the Spanish Universities.⁹⁷² After this reform, the School of Law offered the following programs: Licenciatura and Doctorate in Civil and Canon Law, *Bachiller* in Administrative Law, and *Notariado*.⁹⁷³ Finally, a Royal Order dated August 23rd, 1883 extended the degree of Doctorate to Administrative Law.⁹⁷⁴ In spite of these depoliticizing reforms, the Cuban legal academy encountered difficulties inherited from the war such as control over the

⁹⁶⁹ AHN ULTRAMAR 261, Exp. 13 and 14. These files contain the orders appointing Ricardo Dolz Chair of the Civil, Criminal, Administrative and Canon Procedure by opposition at the University of Havana in 1893.

⁹⁷⁰ BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 39.

⁹⁷¹ Catálogo General de la Universidad de La Habana y Memoria, Universidad de la Habana, Memoria Anuario correspondiente al curso académico 1903-1904, M. Ruiz y Co. Imprenta y Papelería Obispo 18 y 20, Habana, 1905, 14.

⁹⁷² *Ibid.* See Royal Decree of June 18th of 1880.

⁹⁷³ Catálogo General de la Universidad de La Habana y Memoria, 1905, 15.

⁹⁷⁴ *Ibid.*

political and ideological views of faculty members and teaching materials.⁹⁷⁵ In addition, the lack of budget created material problems including problems to fill vacant chairs and find proper substitutes.⁹⁷⁶

Spain submitted a revised plan of studies for the University of Havana in 1886.⁹⁷⁷ In this new plan, Civil, Canon and *Notariado* merged, and the recently reinstated Doctorate in Law was temporarily suspended.⁹⁷⁸ At the same time, an updated system of Chairs was put in place.⁹⁷⁹ There were administrative changes in the organization of the faculty: Chairs of Natural Law and Philosophy of the Law reopened very likely under a conservative orientation, while Criminal and Commercial Laws became separated from one another, perhaps to accomplish a better practical training of graduate in these discrete matters indispensable for litigants to make a living. Not surprisingly, Spain preserved the authority to oversee academic activities, and the literature used in the various courses. On August

⁹⁷⁵ In 1891, for example, the Capitan General reported to the *Ministerio de Ultramar* that the Chair of Writing of Legal Instruments was vacant since the death of Francisco Javier Urrutia in 1884. AHN ULTRAMAR 167 Exp. 27. Communications regarding the vacancy of Chairs in the program of *Notariado*.

⁹⁷⁶ *Ibid.*

⁹⁷⁷ *Catálogo General de la Universidad de La Habana y Memoria*, Universidad de la Habana, *Memoria Anuario correspondiente al curso académico 1903-1904*, (M. Ruiz y Co. Imprenta y Papelería Obispo 18 y 20, Habana, 1905), 16. See Royal Order dated August 12th of 1886.

⁹⁷⁸ *Catálogo General de la Universidad de La Habana y Memoria*, Universidad de la Habana, *Memoria Anuario correspondiente al curso académico 1903-1904*, 18.

⁹⁷⁹ AHN ULTRAMAR 259 Exp. 12. Status of the faculty of the University of Havana. Report dated December 5th, 1891, sent to the *Ministerio de Ultramar* by the President of the University of Havana about the current status of the University, and Report dated January 9th, 1891, sent to the *Ministerio de Ultramar* by the President of the University of Havana about the current status of the University. The new Chairs were: Elements of Natural Law, Political Economy and Statistics, Public Finance, General History of the Spanish Law, Institutions of Roman Law, Spanish Civil Law, Criminal Law, Spanish Commercial Law, Institutions of Canon Law, Public and Administrative Law, Public International Law, Private International Law, Procedure Law, Theory and writing of public instruments, Philosophy of the Law, History and analysis of treaties, Superior Studies of Roman Law, Legal Literature, History and discipline of the Church, Ecclesiastical Public Law, and Institutions of Public and Private Law.

27th, 1888, a Royal Order stated that professors were able to select the reading materials for their courses, but only upon approval of the *Rector* of the University and, ultimately, the *Ministerio de Ultramar* through the Capitan General.⁹⁸⁰ This was the last modification to the School of Law of Spanish Cuba.

After the reform of 1886, Cuban legal academy thrived moving in a seemingly positivist direction. Combined with the works of the *Círculo de Abogados*, local jurists focused their studies on contemporary legal trends, which often associated to positivist ideas. José Silverio Jorrín Bramosio, for example, published an analysis of the Spanish Civil Code of 1889.⁹⁸¹ In the field of criminal law, Cuban legal academy discussed the latest positivist trends coming from Europe including legal anthropology, as shown in the works of Federico Mora, about the anthropometric system of Alphonse Bertillon.⁹⁸² Finally, Cuban legal scholars like Isaac Carrillo O'Farrill showed interest for international and comparative law, and especially the Common Law system of the United States, an expected approach during a moment when American investment in the island increased rapidly.⁹⁸³

The presence of modern trends in Cuba's legal circles did not necessarily mean the improvement of the material conditions of legal education. In 1891, both the Rector of the

⁹⁸⁰ Catálogo General de la Universidad de La Habana y Memoria, Universidad de la Habana, *Memoria Anuario correspondiente al curso académico 1903-1904* (M. Ruiz y Co. Imprenta y Papelería Obispo 18 y 20, Habana, 1905), 17.

⁹⁸¹ See Silverio Jorrín, *Revista de Legislación y Jurisprudencia, El Código Civil Español: sus antecedentes*, Vol. I, T. I. Año I, Serie I (Colombia, 1893), 291.

⁹⁸² Jorrín, 286. See Federico Mora, *Identificación de los criminales - Importante Reforma procesal: extractos de un interesante artículo del Dr. Federico Mora, abogado cubano, sobre el sistema Bertillon publicado en la Habana.*

⁹⁸³ Jorrín, 266. See Isaac Carrillo O'Farrill, *Fuentes de Derecho Americano, el Common Law: Interesantísima disertación sobre la materia.*

University and the Capitan General reported to the *Ministerio de Ultramar* describing the difficult situation of the University of Havana.⁹⁸⁴ Both informed that there were several Chairs abandoned or vacant, and that professors did not attend their classes because of their official duties, age or health issues, while it was increasingly difficult to find proper substitutes.⁹⁸⁵ The School of Law did not escape to this situation. The Chair of Political Economy, Álvaro López Mora, requested continued leaves of absence from 1883 to 1886 based on health issues, until he obtained a position at the University of Zaragoza.⁹⁸⁶ Ignacio Jaumandreu Puig, on the other hand, was appointed Chair of Comparative Political Law on June 28th, 1883, and immediately requested an extension for taking office on the grounds that residing in Havana was too dangerous.⁹⁸⁷

Taking advantage of vacant chairs, a younger generation of creole scholars became faculty members of the School of Law at the University of Havana in the late nineteenth century. José Antolín del Cueto, José Antonio González Lanuza and Antonio Sánchez de Bustamante Sirvent are three members of this new generation. At the same time, they exemplified the political contradictions of Cuban younger generations, in particular regarding colonialism. González Lanuza, born in Habana in 1865, specialized in Criminal

⁹⁸⁴ AHN ULTRAMAR 259, Exp. 12. Report dated December 5th, 1891, sent to the Ministerio de Ultramar by the President of the University of Havana about the current status of the University, and Report dated January 9th, 1891, sent to the Ministerio de Ultramar by the President of the University of Havana about the current status of the University.

⁹⁸⁵ AHN ULTRAMAR 259, Exp. 12. In the School of Law specifically, there were eighteen Chairs, and nine of them were vacant or taught by substitutes. Those were the cases of Natural Law, Spanish Legal History, Civil Law II, Criminal Law, Canon Law, Administrative Law, Public International Law, Private International Law, Procedure Law, Theory and Writing of Public Instruments.

⁹⁸⁶ AHN ULTRAMAR 134 Exp. 1. Personal file of A. Lopez Mora, scholar at the University of Havana.

⁹⁸⁷ AHN ULTRAMAR 168, Exp. 22. Professional file of Ignacio Jaumandreu Puig, scholar at the School of Law of the University of Havana, which includes his requests for a longer stay in Spain. See Royal Order June 28th, 1883.

Law, and was a progressive liberal that advocated for Cuban independentism.⁹⁸⁸ José Antolín del Cueto Pazos, born in 1854, was scholar of Commercial Law and supported an autonomic regime for Cuba while becoming a harsh critic of the official censorship on teaching materials. In a discourse delivered in 1916, Del Cueto described this situation as follows blaming both the Spanish legislation and economic reasons for what he considered an academic crisis: “We lived completely outside of the great trends of juridical international thought due to economic reasons (...) and also due to the Spanish legislation that did not allow us to take advantage of the very rich scientific material accumulated in Europe.”⁹⁸⁹ The third young scholar, Sánchez de Bustamante, was also a moderate liberal born in 1865, and he won the Chair of Public and Private International Law through *oposiciones* in 1892.⁹⁹⁰ As his colleague Del Cueto, Sánchez de Bustamante rejected the Spanish management of the Cuban academy and requested authorization to present a reform to the plan of studies in 1896, to which colonial authorities never replied.⁹⁹¹

In spite of the predominant iuspositivism, Cuban academy still praised those works that were beyond the mere repetition of the law. One of those cases arose from the contest between liberal González Lanuza and conservative Novo García for the Chair of Criminal

⁹⁸⁸ AHN ULTRAMAR 169, Exp. 10, Provision of José Antonio González Lanuza as Chair of Criminal Law at the University of Havana in 1891. AHN ULTRAMAR 264 Exp. 3, Taking possession and dismissal as Chair of Criminal Law of José Antonio González Lanuza in 1896.

⁹⁸⁹ José Antolin Del Cueto, *Elogio del Dr. Berriel*, en *Revista de la Facultad de letras y Ciencias*, Vol. 23 (Habana, 1916), 8.

⁹⁹⁰ AHN ULTRAMAR 264 Exp. 11. File containing documentation showing that Antonio Sanchez de Bustamante was Professor of Law of the University of Havana. Royal Order dated March 29th, 1892, appointing Antonio Sanchez de Bustamante professor of Public and Private International Law in the School of Law in the University of Havana.

⁹⁹¹ AHN ULTRAMAR 264, Exp. 11. Sánchez de Bustamante requests authorization to write an academic project to reform the plan of studies on February 6th, 1896.

Law in 1891. Novo graduated in Madrid in 1883, and worked as a *supernumerario* in the University of Havana since 1884.⁹⁹² Novo's program relied on three major aspects: Crime, Sanction and Trial, with a bibliography that included works of contemporary scholars such as Francesco Carrara, and Cesare Lombroso, both members of the positivist school.⁹⁹³ Novo's rival for the Chair of Criminal Law was José Antonio González Lanuza. He graduated from the University of Havana in 1885, became a Doctor in Law the following year, and was appointed *supernumerario* in July 1890.⁹⁹⁴ In contrast to Novo, González Lanuza sympathized with the separatist movement in Cuba. As a criminal lawyer, Lanuza successfully represented anti-Spanish conspirators charged with treason. In one of those cases, the defense of the Afro-Cuban Juan Gualberto Gómez, Lanuza gained recognition for a favorable verdict from the Supreme Court of Spain regarding the legality of subversive propaganda.⁹⁹⁵ González Lanuza argued that the goal of Criminal Law was to create a balance in society, and covered a broad range of topics and schools, predominantly

⁹⁹² AHN ULTRAMAR 264, Exp. 39, Foja 3. Letter dated August 6th, 1895, opposing to the appointment of José Novo as Chair in the University of Havana that contains his merits and services. AHN ULTRAMAR 145 Exp. 19, foja 25, Document that confers the degree of Doctor in Law to José Novo, on February 17th, 1883. José Novo García graduated from the School of Law at the Universidad Central of Madrid in 1883, and rapidly became the *Auxiliar interino* for this Chair since November 22nd, 1884.

⁹⁹³ José Novo y García, *Programa de Derecho Penal*, (Imprenta y Papelería "La Universal", La Habana, 1891), 7; and 13. For the preliminary part, Novo suggests the following bibliography: "Tratado de Derecho Penal: Ciencia, legislación y jurisprudencia" by Ortolán, "El Derecho Penal estudiado en sus principios y sus aplicaciones" by Tissot, "El Derecho Penal estudiado en principios y en la legislación vigente en España (1874 – 1879)" by Silvela, "Elementos de Derecho Penal (1889)" by Rueda, "Principios del Derecho Penal con aplicación al Código Español of 1872" by Santamaría, "Leyes Penales" by Conde de Pastoret, "Programa razonado de Derecho Penal según los principios y la legislación (1889)" by Valdes Rubio, "Programma del corso di Diritto Criminale" by Carrara, "Le Crime: Étude sociale (Paris, 1888)" by Joly, "Le crime in pays creole" by Dr. Corre, "El hombre delincuente" by Lombroso, and "La nueva ciencia penal" by Aramburu y Zuluaga.

⁹⁹⁴ José Antonio González Lanuza, *Programa de Derecho Penal*, "La Universal", La Habana, 1893.

⁹⁹⁵ Maykel Arista-Salado, *Condecoraciones Cubanas: Teoría e Historia*, Trafford Publishing, U.S., 2010. This material includes biographical information of Gonzalez Lanuza as part of his merits in the creation of the official condecration that posteriorly would have his name during the Cuban Republic.

Italians, including Beccaria, Ferri, Lucca, and Paoli.⁹⁹⁶ Both programs, therefore, incorporated classic theories on crime with positivist approaches.

Upon review of the proposals, the tribunal found that Novo's course consisted of a repetition of the Spanish Criminal Code of 1870 with a reductionist approach to the legal science as a mere exposition of positive law. González Lanuza's proposal, on the other hand, was also criticized as follower of the Spanish model; but honored because of the use he made of the classics and his distinction between legal anthropology, penitentiary science, and positive criminal law as three different components of criminal sociology. After deliberations, González Lanuza was found more capable to teach Criminal Law and, hence, more qualified for the vacant Chair. It was clear in both comments that the members of the tribunal applauded the departure from the Spanish model and promoted a locally conceived program of study. Although the decision of the tribunal does not make any reference to the political background of the candidates, they also favored the progressive liberal against the conservative pro-Hispanic, which might suggest that liberals, who mostly controlled the *Círculo*, the *Colegio*, and the School of Law, also integrated the tribunal.⁹⁹⁷ Liberalism, therefore, was still prevalent among Cuban legal scholars, and critical issues of the liberal agenda also materialized under this period as the result, among other forces, of the participation of lawyers. Yet, there were cases, such as the aftermath of the abolition of slavery, where positivist ideas questioned fundamental liberal principles, which was the case of the equality of every person in front of the law.

⁹⁹⁶ AHN ULTRAMAR 169, Exp. 10, foja 300. Program of Criminal Law submitted by González Lanuza as part of his application for the Chair of Criminal Law at the University of Havana in April of 1891.

⁹⁹⁷ *Revista General de Legislación y Jurisprudencia*, Sección de Noticias Bibliográficas, Vol. 82 (Editorial Reus, Madrid, 1893), 217 – 218. The note does not say who were the members of the Academic Tribunal.

The Abolition of Slavery and the Legal Community.

In 1878, the Pact of Zanjón left unresolved the issue of the abolition of slavery in Cuba, which had been in debate for a long time in the Spanish Cortes. The abolition of slavery found support in Captain General Arsenio Martínez Campos. After serving in Cuba, Martínez Campos returned to Spain and became Prime Minister. In this position, he tried to fulfill the promises made in El Zanjón, in order to preserve the peace on the island. As part of his agenda, Martínez Campos proposed an abolitionist project in 1879 that accelerated the Moret Law. This legislation had regulated an immediate abolition of slavery substituted by an eight-year patronage intended to avoid damages to the production of sugar due to lack of labor. This law, however, did not contain any form of economic compensation for slave owners. Such an omission made it unacceptable to many creole slave-owners who would suffer tremendous economic impact after losing more than 200,000 slaves that still existed in Cuba. As for abolitionists, they only saw in this law a transformation of slave work into a system of patronage rather than a true definitive and immediate abolition of slavery.⁹⁹⁸

The abolitionist movement gained support when liberal lawyer José Güell Renté became spoke-person in the Cortes in 1879.⁹⁹⁹ He was born in Cuba, and graduated, along with his brother Juan, from the School of Law of the University of Barcelona in 1841.¹⁰⁰⁰ They belonged to a family of lawyers that lived through the nineteenth century in the city

⁹⁹⁸ Corwin, 301.

⁹⁹⁹ Raymundo Cabrera, *Cuba and the Cubans*, (Levytype Company, Philadelphia, 1896), 362.

¹⁰⁰⁰ AHN ULTRAMAR, 11, Exp. 9. Equivalation of studies of Law of Juan y José Güell Renté.

of Havana and its vicinities, such as Güines and Guanabacoa.¹⁰⁰¹ Juan and José experienced the political conflicts in Havana upon their return from Spain in the late 1840s, and even participated of the short-lived *Colegio de Abogados* in 1852. In 1847, Juan tried to become the Secretary of the *Junta de Fomento*, an institution that promoted modernization on the island; but the colonial government denied him this position, presumably for his liberal views.¹⁰⁰² In 1879, under the system of political tolerance created after the war, José reached a representative position in Madrid and, in that capacity, pursued an agenda demanding the complete abolition of slavery with compensation to slave-owners in Cuba.¹⁰⁰³

Being quite a controversial topic, the recently created political parties took sides regarding abolition. Conservative *Unión Constitucional* comprised rich plantation owners and merchants. This group “would not oppose abolition in principle, but the demands of economic expansion, the labor shortage, and the profits made from renting slaves, would cause many of them to resist abolition in practice.”¹⁰⁰⁴ Autonomist Liberal Party, on the other hand, also had slave-owners within its ranks, including its leader José María Gálvez Alfonso. They wanted the abolition of slavery with indemnification to the owners, preservation of patronage rights, regulation of the labor of free blacks and control over

¹⁰⁰¹ The Rente family was a notable family of Cuban society. Among their members, there were lawyers such as Juan Quintin Rente, Jose Rafael Rente Dominguez, Federico Santiuste Rente, Federico Lima Rente, and the profesor supernumerario of the School of Law of the University of Havana, Felipe Lima Rente.

¹⁰⁰² AHN ULTRAMAR, 20, Exp. 25. Letter informing Güell that he is being rejected as Secretary of the *Junta de Fomento* in Cuba.

¹⁰⁰³ Corwin, 394.

¹⁰⁰⁴ Ibid, 296.

their education, and exclusive white immigration.¹⁰⁰⁵ Thus, both political groups supported abolition to some extent, but economic interests delayed its implementation; and the liberal posture was more radical than the *peninsular* one.

In response to the liberal proposal, the members of the Conservative Party requested an extension of the number of years under patronage for the slaves. One of the most vocal supporters of this revision was the *peninsular* lawyer Gregorio Ibañez Palenciano. He was born in Teruel, graduated in Madrid in 1868, and settled down in Sancti Spiritus in 1872 where he acquired *haciendas*.¹⁰⁰⁶ As a result of the ongoing debate, Spanish Cortes enacted a new legislation in 1880 that would assess proper compensation, but would delay the abolition of slavery because of the slow system to make those assessments. Still, this law also received the support of several lawyers in Cuba, such as judge Antonio Vázquez Queipo.¹⁰⁰⁷ He graduated in Madrid in 1864 and returned to Cuba pursuing a career within the judiciary system during the war, being opposed to Cuban independence but still favorable to some liberal reforms.¹⁰⁰⁸ Upon the enactment of the 1880 abolitionist law, Vázquez Queipo praised this legislation arguing that it would be more efficient than the Moret Law of 1870 and that it would abolish slavery faster.¹⁰⁰⁹

The legal debates about slavery impacted the island's public sphere, including the *Certamen de Círculo de Abogados* of Havana in 1880. This was a contest based on

¹⁰⁰⁵ *El Partido Liberal de Cuba: la Política en las Antillas* (pamphlet), Madrid, 1882.

¹⁰⁰⁶ *Guía de Forasteros*, 1872.

¹⁰⁰⁷ Corwin, 306.

¹⁰⁰⁸ AHN UNIVERSIDADES, 4837, Exp. 24. Academic file of Antonio Vázquez Queipo.

¹⁰⁰⁹ Corwin, 306 FN 35. *Diario, Congreso (1879 – 1880)* III No. 80 (15 Enero de 1880), 1380 – 1381.

presentations of local lawyers on legal issues. The relator of the *Certamen*, the liberal lawyer from Matanzas Eliseo Giberga, stated in the opening address that slavery was the cause of the underdevelopment of certain rights in ancient civilizations. Quoting the President of the *Círculo de Abogados, unionista* Pedro González Llorente, Giberga added: “slavery caused fatal consequences as chaos creates evil, and crime created degradation. (...) Slavery debased work.”¹⁰¹⁰ The *Certamen*, however, did not include any specific presentation on slavery.

As the *Colegio de Abogados* of Havana constituted a complex mix of different political opinions, not every lawyer supported abolition, even those with possible liberal credentials. Among the opponents was, for instance, the creole lawyer Nicolás Cárdenas Ortega, who established his office in Havana since 1864 and finally joined to *Colegio* in 1892.¹⁰¹¹ The Committee of Inspection and Surveillance, a body created during to investigate insurgents, had investigated Cárdenas during the Ten Years War was a suspect of *infidencia* because of his liberal ideas.¹⁰¹² Cárdenas, at the same time, was the owner of a plantation having up to 185 *patrocinados* in 1880. During the investigation to compensate Cárdenas for abolition, these workers accused him to provide insufficient food. Cárdenas, in response, replied to the Captain General questioning the emancipatory procedures and the credibility of the inspectors who visited the plantations. In Cárdenas’ opinion, those officials’ report was based on the testimony of former slaves, whom he considered an

¹⁰¹⁰ *Certamen del Círculo de Abogados de La Habana* (Imp. Militar de la V. de Soler y Co, Havana, Cuba, 1880), 29.

¹⁰¹¹ ANC Registro de Inscripción de Abogados del Colegio de la Habana.

¹⁰¹² AHN ULTRAMAR 4389, Exp. 18. File of the prosecution of Cárdenas for suspect of *infidencia* in 1870.

unreliable source of information. Cárdenas understood that giving credibility to *patrocinados* over former owners broke the traditional order of Cuban slavesociety and the respect typically due to the masters.¹⁰¹³ This example showed how the colonial social hierarchy still shaped the views of some creole lawyers.

Unlike Cárdenas, other legal professionals on the island openly supported the abolition of slavery. The most notorious of them was José Antonio Cortina, director of *Revista de Cuba*. By the late nineteenth century Cortina had already played a significant role in the development of liberalism and abolitionism in Cuba by, among others, founding a branch of the Spanish Abolitionist Society.¹⁰¹⁴ Throughout his life, Cortina pursued a campaign to sensitize Cuban elites with the abolition of slavery including publications in his *Revista de Cuba*, and the organization of rallies. His activity was particularly intense in March of 1882, after Spain forbade creoles to openly engage in abolitionist activities to avoid public confrontation.¹⁰¹⁵ Another fervent abolitionist was the lawyer Luis Azcárate Fesser, whom in a single day granted freedom to 300 slaves from his plantation Santa Gertrudio, which cost him the significant amount of \$300,000 pesos.¹⁰¹⁶ Azcárate was born in Guanabacoa in 1851, and graduated from the Universidad Central in Madrid in 1884,

¹⁰¹³ AHN ULTRAMAR 4884 Exp. 101 in Rebecca J. Scott, *Slave Emancipation in Cuba: the transition to free labor, 1860 – 1899* (University of Pittsburgh Press, 2000), 177.

¹⁰¹⁴ Corona fúnebre literaria en honor del ilustre cubano, Don José Antonio Cortina: Biografía. Homenaje de la prensa. Flores y lágrimas. Impr. "La Primera de papel", 1884.

¹⁰¹⁵ Corwin, 310.

¹⁰¹⁶ Albert Shaw, *Review of Reviews and World's Work: An International Magazine*, Volume 47 (Review of Reviews Corporation, 1913), 362.

belonging to Cortina's same generation, and representing his same liberal values, including the abolitionist spirit.¹⁰¹⁷

Abolition was a central issue in the political activism of Rodolfo Lagardere, the Afro-descendant lawyer born in Barcelona who established himself in Cuba during the 1870s. Lagardere advocated not only for the abolition of slavery, but also equality across the island and the end of racial discrimination. In April of 1879, he published the newspaper *El Ciudadano* and wrote abolitionist articles under the pseudonym of "El Mandinga," probably in reference to his African ancestors.¹⁰¹⁸ He spread abolitionist ideas through this newspaper by sending 25 issues to Spain, England, and France.¹⁰¹⁹ Shortly thereafter, Lagardere also became the director of the newspaper *La Unión* and, while supporting the Spanish presence on the island, declared himself "the genuine representative of the race of color in Cuba."¹⁰²⁰ Since Afro-descendants were forbidden to attend Spanish Casinos, Lagardere began a process to create clubs for "people of color," requesting for that purpose the support of the Bishop of Havana between October and December of 1880.¹⁰²¹ Lagardere also requested the authorization to edit a magazine that would be the official publication for this casino, named *La Lealtad*. He insisted that this publication would not

¹⁰¹⁷ ANC Register of the *Colegio de Abogados* in Havana; and AHN UNIVERSIDADES 3638, Exp. 9, Academic file of Luis Azcárate at the School of Law of the *Universidad Central* in Madrid.

¹⁰¹⁸ Barcia, 363.

¹⁰¹⁹ *Ibid*, 355.

¹⁰²⁰ *Ibid* 355, and David Sartorius, *Ever Faithful: Race, Loyalty, and the End of Empire in Spanish Cuba* (Duke University Press, 2013), 138.

¹⁰²¹ Letters from Rodolfo de Lagardere to the Bishop of Havana dated October 14th, 1880, September 1880, and November 30th, 1880, requesting the opening of the Casino Español de Color and a school in Santiago de las Vegas. Transcripts from the original available in María del Carmen Barcia Zequeira, "Casinos españoles: de color?" *Revista SEMATA, Ciencias Sociales e Humanidades*, Vol. 24 (Universidad de Santiago de Compostela, 2012), p. 351 – 374, 370 – 372.

have political affiliation since its goal was to support neither conservatives nor liberals, but to integrate black and white families in a Spanish Cuba.¹⁰²² The main ideological affiliation that Lagardere showed was his high devotion to the Catholic Church. In fact, he was a deeply conservative Catholic (*ultramontano* and *integrista*).¹⁰²³

Despite Lagardere's non-partisan position, he frequently confronted Cuban liberals. Upon the establishment of the *Casino Español de Color* in Havana on February 18th, 1881, Lagardere started editing its magazine, finally approved under the name of *La América Española*.¹⁰²⁴ Lagardere also sent a letter to the Secretary of Ultramar on September 24th, 1881, as representative of the race of color in Cuba, along with a Manifesto titled "To my friends, everything for Spain and for the slave."¹⁰²⁵ Also in 1881, Lagardere sent an exposition to the Cortes co-signed with the Abolitionist Party of Puerto Rico, the Spanish

¹⁰²² ANC Gobierno General, Legajo 171 Exp. 8901. See in Barcia, 355. "(...) *ajena por completo a las luchas de los partidos políticos redactada con un elevado criterio que prescinda de mezquinas miras y ruines personalidades, en lenguaje sencillo, claro, franco y adecuado a la inteligencia de los lectores a que se dirige, se consagre por completo a moralizar, a educar, a construir, a preparar a la familia negra de Cuba dignamente para la vida pública, creando en su alma amor al orden, a la raza blanca y al trabajo; perpetuando su lealtad a la nacionalidad española (...)*."

¹⁰²³ ANC Gobierno General, Legajo 171 Exp. 8901. See in Barcia, 356: "(...) *sobre todo, contribuir a que las civilizadoras verdaderas del Cristianismo sean su guía y su norma única toda vez que sin Dios no hay libertad y los pueblos son más libres cuanto más religiosos.*"

¹⁰²⁴ Barcia, 356; and Sartorius, 138. Both Sartorius and Barcia used biographical information about Rodolfo de Lagardere. Barcia relied mostly on primary sources and archival materials whereas Sartorius used the biography written by Martin Morúa, other Afro-Cuban opposed to Lagardere. Morua's biography of Lagardere included mistakes that Barcia unveils in her study and documented with primary sources. Sartorius, for example, says on page 154 that Lagardere's father was the slave-trader Pedro Blanco, who was his grandfather, and Barcia produces the certificate of legitimation that Pedro issued on behalf of Rosa in 1840 to recognize her as legitimate daughter.

¹⁰²⁵ AHN ULTRAMAR 4883, Exp. 3. Collection of documents containing the letter to the Secretary of Ultramar dated September 24th, 1881, and the Memorandum "A mis amigos, todo por España y por el esclavo," written by Rodolfo de Lagardere.

Abolitionist Society, and residents of Cuba, demanding the abolition of slavery.¹⁰²⁶ This petition was read in the Spanish Cortes on November 23rd, 1881.¹⁰²⁷

From his position as a journalist, rather than as a lawyer, Lagardere entered into a fierce debate with the Liberal Autonomist Party when its members called him inconsistent because of his support for Spanish colonialism. Lagardere, in response, accused them of false liberalism because of the delay in the definitive abolition of slavery. Lagardere also questioned the limitations of Cuban liberalism, and showed his aspirations that social equality would also bring active political participation to Afro-Cubans: “there is no true dignity for men of color but in the bosom of public liberties.”¹⁰²⁸ The attacks of Lagardere to the liberal party, and his support for the Spanish control over Cuba, raised questions about his integrity as an abolitionist, and other Afro-Cuban leaders started criticizing him. Juan Gualberto Gómez, for example, questioned the efficacy of his newspaper *La Fraternidad*, as a mechanism to fight for social equality in Cuba when he only defended Afro-Cubans.¹⁰²⁹ Martín Morúa Delgado also confronted his ideas, and even wrote a biography where he unveiled Lagardere’s ascendant Pedro Blanco as a slave-trader. The same biography included passages of Lagardere’s personal life to attack his morality, such as his separation from a woman, who was a former slave and a single mother with a child,

¹⁰²⁶ AHN ULTRAMAR 4815, Exp. 1. Collection of documents that contains an exposition that Rodolfo de Lagardere sent to the Spanish Cortes as representative of the members of the race of color in Cuba demanding the abolition of slavery in the Antilles.

¹⁰²⁷ Diario de las sesiones de las Cortes, Congreso de Diputados, Dictámenes de la Comisión de Peticiones, Apéndice Sexto, No. 54, entry 14 (J.A. García, 1882), 1.

¹⁰²⁸ ANC DONACIONES, Box 72, Exp. 4267, Letter from Rodolfo de Lagardere to the Director of La Discusión, dated November 29th, 1881. See in Barcia, 356: “No hay verdadera dignidad para los hombres de color sino en el seno de las libertades públicas.” For his anti-autonomist inclinations see his pamphlet “La Cuestión Social de Cuba: Cuba no es Venecia.” (Tipografía Universal de Ruiz y Hermano, 1887)

¹⁰²⁹ Barcia, 356.

after living with her during some time.¹⁰³⁰ In spite of these controversies, this mulatto lawyer (probably the first in Cuba), contributed to the abolition of slavery and the incorporation of Afro-descendants and former slaves into the public space of the island.

Along with local manifestations, creole lawyers advocated for abolition from the metropolis itself. For example, Calixto Bernal, a creole lawyer and promoter of abolition, was elected representative the Liberal Party in the Spanish Cortes in 1881, joining José Güell and Rafael María de Labra in Madrid.¹⁰³¹ Bernal represented the spirit of the Cuban liberals who pushed for a more accelerated abolition. The process still faced two main delays: the slow work of the officials in charge of assessing compensation for emancipation, and the lack of cooperation of impoverished creoles who could not substitute slave work-force by paid labor. For these reasons, although a growing number of *libertos* started slowly appearing in the major cities of Cuba, this gradual process did not satisfy the expectations of Cuban abolitionists.

By the end of 1883, about 100,000 people still remained under slavery on the island.¹⁰³² External influence from countries such as Great Britain and France demanded the elimination of the slave system, while internal forces from Spain and Cuba kept pressuring for definitive emancipation. As a final legal resort, creole liberal representatives in Madrid, lawyers José Güell Renté, Calixto Bernal and Rafael María de Labra, filed motions s demanding the immediate abolition of slavery and *patronage* in June of 1883.¹⁰³³

¹⁰³⁰ Barcia, 363; and Sartorius, 154.

¹⁰³¹ Corwin, 298.

¹⁰³² Ibid, 307.

¹⁰³³ Ibid, 309.

The moment was also convenient since Spain had just struggled out of an economic crisis during the early 1880s, and it urged to preserve peace in Cuba and the sugar production. Güell explained to the Cortes how Spain depended on Cuban staples, and stressed the convenience to modernize the economy of the island, increase its productivity, and avoid future economic crisis.¹⁰³⁴ The arguments of these lawyers deepened the questioning of slavery mostly on economic terms and, ultimately, contributed to the end of the slave system. Royal Decree of October 7th, 1886 finally abolished slavery and *patronato* in Cuba, and only Brazil preserved this institution across the continent for the next two years.

Once abolition was declared, the issue of racial integration arose. In spite that many Cubans still considered Afro-Cubans an inferior race, emancipation granted them equal legal status as the rest of the inhabitants of the island. Thus, the positivist approach to apply scientific methods to study the society and its members justified the implementation in Cuba of theories such Social Darwinism. This theory relied on Darwin's natural selection to argue that some races are more developed than others, providing the scientific justification to oppose racial and social integrationist projects.¹⁰³⁵ Darwinism spread in other Latin American countries such as Mexico creating criminal stereotypes based on race or anatomical characteristics.¹⁰³⁶ It also spread in Cuba since the late 1870s, especially in the works of the professor of Natural History of the University of Havana Felipe Poey.¹⁰³⁷

¹⁰³⁴ Corwin, 311.

¹⁰³⁵ Richard Hofstadter, *Social Darwinism in American Thought* (Beacon Press, 1992), xiv.

¹⁰³⁶ See Robert M. Buffington, *Criminal and Citizen in Modern Mexico* (University of Nebraska Press, 2000), 118.

¹⁰³⁷ Pedro M. Pruna and Armando García González, *Darwinismo y Sociedad en Cuba Siglo XIX* (Consejo Superior de Investigaciones Científicas, Madrid, 1989), 169.

Cuban lawyers also participated of conferences on this topic, being known that José Antonio Cortina attended to some of these lectures.¹⁰³⁸

In addition of abolitionist, Cortina also was a radical liberal and positivist and showed great interest in those theories. Although both ideologies were philosophically contradictory, they were embraced by the very same people in Cuba. Since the second number of his *Revista de Cuba*, Cortina included articles on anthropology, translations of the works of evolutionist Ernst Haeckel, and a review of Haeckel's ideas of the origins of man.¹⁰³⁹ Cortina also organized meetings to discuss Darwinism in the Liceo de Guanabacoa, where he invited supporters and opponents to this theory such as positivist poet Antonio Vinajeras, and medical doctor José Francisco Arango.¹⁰⁴⁰ In general, Social Darwinism promoted white superiority and black inferiority, while denigrated Afro-Cubans.¹⁰⁴¹ As a result, publications started circulating referring to Afro-Cubans as the “inferior race,” while physicians Juan Montalvo, Carlos de la Torre and Luis Montané pursued studies measuring and weighting their body parts in order to arrive to a scientific conclusion about their social and intellectual capacities.¹⁰⁴²

¹⁰³⁸ Pruna, 91.

¹⁰³⁹ Pedro Pruna, *Biological Evolutionism in Cuba at the End of the Nineteenth Century*, in T.F. Glick, Miguel Angel Puig Samper, and R. Ruiz, *The Reception of Darwinism in the Iberian World: Spain, Spanish America and Brazil* (Kluwer Academic Publishers, 2012), 56.

¹⁰⁴⁰ Ibid.

¹⁰⁴¹ Aline Helg, *To Be Black and To Be Cuban: the Dilemma of Afro-Cubans in Post-Independence Politics*, in Darien Davies, *Beyond Slavery: the Multilayered Legacy of Africans in Latin American and the Caribbean* (Rowan and Littlefield, 2007), 129.

¹⁰⁴² Yoel Cordoví Nuñez, *Liberalismo, crisis, e independencia en Cuba, 1880 – 1904* (Editorial de Ciencias Sociales, La Habana, 2003), 139.

Social Darwinism reached the legal field, meeting with supporters and opponents alike. The School of Law initiated studies on Legal Anthropology, and tried to implement anthropological methods in use in Europe. In 1892, Federico Mora, graduated in Havana in 1877, imported the Bertillón system to Cuba, including the appliances, which it seems he never put in use, and wrote an article about them in *Revista General de Derecho*.¹⁰⁴³ By contrast, lawyer Joaquín de Freixas Pascual, who also graduated in Havana in 1877, published an article in 1893 criticizing the works of Cesare Lombroso, and his positivist methods.¹⁰⁴⁴ On the same lines, Miguel García Alvarrez, who had just graduated in 1893, published in 1894 the booklet “Criminal Law: Notes,” where he followed a classic rather than positivist approach, receiving in the future the critics of Fernando Ortiz for this omission.¹⁰⁴⁵ Other studies not only included Afro-Cubans but also Chinese and other ethnic groups, along with sexual and criminal conducts.¹⁰⁴⁶

Although many liberals subscribed to these new ideas, some legal trained professionals reacted in opposition, and questioned those who had embraced these ideas. One of the most important activists against this discriminatory system was the Afro-Spanish lawyer Rodolfo Lagardere. In 1887, he wrote “La Cuestión Social de Cuba,” where he affirmed his doubts regarding the strength of liberals and the absence of equality across the island: “That word equality so often repeated in the program of the Antillean liberal party is written

¹⁰⁴³ Fernando Ortiz Fernández, *Los Modernos Criminólogos Americanos*, in *Cuba y América: Revista Ilustrada*, Vol, 14, Issues 1 – 13, p. 322.

¹⁰⁴⁴ *Ibid.*

¹⁰⁴⁵ *Ibid.*

¹⁰⁴⁶ See Pedro Marqués de Armas, *Ciencia y Poder en Cuba: Racismo, Homofobia, Nación, 1790 – 1970*, Editorial Verbum, 2014.

in sand.”¹⁰⁴⁷ Lagardere’s major attack against a liberal publication took place in 1889, when doctor Benjamín de Céspedes put out a study titled “La prostitución en Cuba.” In this book, the physician remarked the participation of Afro-Cuban women in prostitution and questioned their intelligence, morality, and skills to live in a civilized society. As a response, Lagardere wrote “Blancos y Negros,” proving the intellectual capacity of African descendants through examples of those living in Cuba while questioning a liberalism that prevented social integration and equality across Cuban society.¹⁰⁴⁸ In spite of his social advocacies, Lagardere did not practice as a lawyer and did not become a member of the *Colegio de Abogados*. His absence from the legal forum could be explained either by his focus on journalism and political activities, or by the existence of those racial barriers that he was challenging through his campaigns for social integration.

Other lawyer that opposed racial discriminatory theories was the independentist and liberal lawyer Manuel Sanguily. In 1894, Sanguily wrote “Negros y Blancos,” where he criticized the segregationist doctrines, and the fact that many liberals had endorsed those policies. With the intention to make a contrast, and a political joke, Sanguily compared the skull of an Afro-Cuban, a separatist and an autonomist. He said that, in spite of the measurements of their skull, at least the Afro-Cubans had been able to endure until the end of their struggle, probably referring to the abolition of slavery, while the separatist had abandoned the *palenque*, meaning the lost of the Ten Years War, and the autonomist continues its eternal prayer to Spain, an indication of the Liberal Party’s reformist program

¹⁰⁴⁷ Sartorius, 195.

¹⁰⁴⁸ Rodolfo de Lagardere, *Blancos y Negros*, Imprenta La Universal, Havana, 1889; and Barcia, 364.

that Madrid mostly ignored.¹⁰⁴⁹ In his comparison, Sanguily even proposed the superiority of Afro-Cubans. Positivism, however, provided the scientific arguments to question complete racial integration after abolition; and, although liberalism had proclaimed the equality of men in front of the laws, this process became rather slow for the following decades. Still in 1906 Fernando Ortiz published “Los Negros Brujos,” a study of the criminal behaviors of Afro-Cubans on the island, inspired in the Italian School of Legal Anthropology.¹⁰⁵⁰

In spite of the discriminatory theories, Afro-Cubans gradually integrated within the Cuban society, and even joined the community of legal professionals of the island.¹⁰⁵¹ In 1893, Manuel Bergues Pruna became the first Afro-Cuban *procurador* on the island.¹⁰⁵² He was born in Santiago de Cuba on March 21st, 1863, and moved to Panama in 1885 to raise funds for the independence of Cuba.¹⁰⁵³ In 1893, Bergues Pruna returned to Havana where he worked as a schoolteacher and also acquired the license of *procurador*.¹⁰⁵⁴ At the same time, he worked as a journalist writing for the newspapers *La Democracia* and *La*

¹⁰⁴⁹ Cordoví, 66.

¹⁰⁵⁰ In his study *Los Negros Brujos*, Fernando Ortiz refers to the Italian School of Anthropology. See Fernando Ortiz, *Hampa Afro-Cubana: Los Negros Brujos, con una carta-prólogo (juicio crítico) de Dr. C. Lombroso*, Madrid, Librería de Fernando, Carrera de San Gerónimo 2, 1906.

¹⁰⁵¹ See Juan Felipe Risquet, *Rectificaciones: la Cuestión Política-Social en la Isla de Cuba*, Imprenta Patria, 1900.

¹⁰⁵² Risquet, 180.

¹⁰⁵³ *Próceres de Santiago de Cuba: índice biográfico-alfabético* (Imprenta de la Universidad de la Habana, Santiago de Cuba, 1946), 53.

¹⁰⁵⁴ Carlos E. Forment, *Crónicas de Santiago de Cuba: Continuación de la Obra de Emilio Bacardí*, Vol. 1 (Editorial Arroyo, 1953), 38.

Igualdad, promoting social integration and equality amongst Cubans.¹⁰⁵⁵ Meanwhile, in 1894, Juan Tranquilino Latapier became the first Afro-Cuban that enrolled at the School of Law of the University of Havana. He was sponsored by the *Directorio Central de las Sociedades de la Raza de Color*, an organization created after 1886 to support the integration of Afro-Cubans.¹⁰⁵⁶ It is possible that Latapier gained this sponsorship because he already had the degree of Bachiller, a level of education that very few members of the Afro-Cuban community had reached up until then.¹⁰⁵⁷ Yet, positivist ideas continued in Cuba until the early twentieth century, which delayed the racial integration in a so-called liberal Cuba.

Women and the Legal Profession.

While positivist ideas prevented the racial integration in the aftermath of the abolition of slavery, other theories also conflicted with the principles of equality that liberals raised. One of those ideologies was the patriarchal organization of the Cuban society that equally manifested in the reduced public, intellectual and social female participation. As that of Afro-Cubans, thus, the presence of women in the legal profession was very limited. This situation, however, changed in the last decade of the nineteenth century when the first group of women earned professional degrees in Cuba.

¹⁰⁵⁵ Risquet, 180.

¹⁰⁵⁶ Aline Helg, *Our Rightful Share: the Afro-Cuban Struggle for Equality, 1886 – 1912* (University of North Carolina Press, 1995), 41 and 130.

¹⁰⁵⁷ *Ibid*, 36. In this page, the author analyzes the limited access to elementary education for Afro-Cubans and the efforts of the Directory and Afro-Cubans activists to promote their incorporation, including the University of Havana.

The University of Havana graduated its first generation of women during the 1880s.¹⁰⁵⁸ The first woman enrolled in the University of Havana was Mercedes Riba y Pinos. She was born in Barcelona in 1857, and received the degree of Licenciatura in Philosophy and Letters on June 12th, 1883, and the Doctorate from the same School on May 22nd, 1887.¹⁰⁵⁹ At the end of the 1880s, various other women were students at the University of Havana, with a higher concentration in the Schools of Pharmacy and Sciences. For instance, in 1883, Digna América del Sol Gallardo and Laura Martínez de Carvajal Camino matriculated at the School of Sciences, and María Jacinta de la Asunción Menéndez de Luarca y Díaz in Pharmacy.¹⁰⁶⁰

By contrast, no women graduated from the University's School of Law during the 1880s. Still, the requirements to be a lawyer in the Spanish Law of 1870 did not make any distinction based on gender. Therefore the absence of women in the legal community seemed to have been more of a social rather than a legal limitation. Lawyers, however, slowly changed their views and among Cuban legal professionals there were manifestations

¹⁰⁵⁸ Julio César González, *Historia de la mujer en Cuba: del feminismo liberal a la acción política femenina*, José Antonio Piqueras Arenas, editor, *Diez nuevas miradas de historia de Cuba* (Publicaciones de la Universitat Jaume I, 1998), 275, FN5.

¹⁰⁵⁹ Ortiz, 186 - 188.

¹⁰⁶⁰ *Ibid*, 190 - 192. Digna América del Sol y Gallardo was born in Matanzas on October 2nd, 1867, daughter of Carlos Zacarías del Sol y Evarista Gallardo, owners of the Ateneo of Matanzas. Laura Martínez Carvajal was born in Havana on August 28th, 1869, and her parents were Vicente Martínez de Carvajal y Jiménez de Molina, from Almería, and Elsa del Camino y Albuérne, from Gijón, Oviedo, receiving the Licenciatura in Medicine in 1887, and Sciences on June 26th, 1888. María Jacinta de la Asunción Menéndez de Luarca y Díaz was born in Guanabacoa on August 16th, 1858 and obtained the degree of Licenciatura in Pharmacy on June 16th, 1888, and did not finish her studies of Medicine because of her poor grades, and also because she moved to Cadiz. Other female students during this period were María Luisa Dolz in Sciences, Adela Tarafa Acosta in Sciences and Pharmacy, and María de Jesús Pimentel Peraza in Pharmacy. Ortiz, 192 - 194. María Luisa Dolz Arango graduated of Natural Sciences in October 1889, and pursued a career in education thereafter. Adela Tarafa Acosta was from Pinar del Río and was daughter of Carlos Tarafa and Ana Acosta and graduated of Pharmacy on June 13th, 1890. María de Jesús Pimentel Peraza was born in Havana in 1870, and received the Licenciatura in Pharmacy in 1889, and Doctorate in Pharmacy in 1892.

of support for the access of women to higher education. In 1881, Antonio Govín, a liberal jurist and lecturer of the *Círculo de Abogados* in Havana, published in *Revista de Cuba* a study of legislations on women and their legal capacity across Spanish legal history analyzing their legal status and questioning wives' limitations relative to husbands.¹⁰⁶¹ Antonio Ambrosio Ecay, attorney from Havana and President of the Section of Education, authorized her daughter María del Carmen Ecay to obtain her degree of Bachelor at the University of Havana in 1884.¹⁰⁶² Thus, members of the legal community were increasingly supporting gender equality and the presence of women in academic activities. These factors favored the access of women to the legal profession, and the enrollment of the first woman to the School of Law in Havana.

María Francisca Isidora Rojas Sabater de Astudillo became the first female law graduate. She was born in Cienfuegos on April 4th, 1855 and worked as teacher of elementary school in Havana. On July 10th, 1880, Rojas became the director of the Elementary School in the First District of Havana, which only allowed Afro-Cuban Girls. Under her direction, on October 15th, this school allowed access to every female student irrespective of race thus becoming an equal opportunity center for every girl.¹⁰⁶³ Thus, Rojas was not only instrumental in the transition of the school she directed but also a

¹⁰⁶¹ Antonio Govín, *Exámen histórico – crítico de las leyes patrias que regulan la capacidad de la mujer durante el matrimonio*, en José Antonio Cortina, *Revista de Cuba: periódico mensual de ciencias, derecho, literatura y bellas artes*, Vol. 10 (Establecimiento tipográfico de Soler and Alvarez, Cuba, 1881), 122 – 149.

¹⁰⁶² AHN ULTRAMAR 144, Exp. 41, File promoted by Antonio Ambrosio Ecay, lawyer in Havana, to request authorization for his daughter, Carmen Ecay, to continue her education after the Institute of Havana to obtain the degree of Bachiller in Arts in the University of this city, which was granted.

¹⁰⁶³ José Esteban Liras, *La primera enseñanza en la isla de Cuba: Historia de las escuelas municipales y demás establecimientos de enseñanza, datos estadísticos sobre instrucción pública y resumen de la legislación vigente* (Establecimiento de Fernández Casona, 1893), 89.

promoter of equality across the educational system in Cuba. Other lawyers who also worked as educators participated of similar processes of racial integration, such as Manuel Valdés Rodríguez, who installed craft schools for white and black students in Havana in the same period.¹⁰⁶⁴

Upon receiving her diploma from the School of Teachers in Havana on August 1st, 1883, Rojas enrolled at the University of Havana in October of the same year.¹⁰⁶⁵ In this institution, she took classes in the School of Philosophy and Arts, and in the School of Law. From 1886 to 1888, she pursued an internship at the law firm of the liberal José María Carbonell Ruiz, Chair of Procedure Law at the University of Havana, receiving satisfactory reports for her work and legal knowledge.¹⁰⁶⁶ While being a student of law, in 1888, Rojas married Francisco de Paula Astudillo Ozete, member of the School of Sciences of the University of Havana, an event that also reflected the increasing support among men, even husbands, for the education of women at the end of the nineteenth century.¹⁰⁶⁷

She finally earned the Licenciatura in Canon and Civil Law at the University of Havana on March 6th, 1893.¹⁰⁶⁸ Francisca Rojas, however, did not become a member of the

¹⁰⁶⁴ AHN ULTRAMAR 166 Exp. 17, foja 18. Application of Manuel Valdes Rodriguez for a position of Chair of Latin and Spanish in the Institute of Second Education in Havana, containing his relation of merits and services.

¹⁰⁶⁵ Liras, *La primera enseñanza en la isla de Cuba*, 89.

¹⁰⁶⁶ Ortiz, 189. “[Francisca Rojas] ha asistido por espacio de más de dos años a mi estudio, ejercitándose en el despacho de asuntos judiciales y dando pruebas de la mayor aplicación y el más notable aprovechamiento.”

¹⁰⁶⁷ AHN ULTRAMAR 255, Exp. 11, Professional file of Francisco de Paula Astudillo y Ozete showing that he was an employee of the School of Sciences of the University of Havana since 1869; AHN ULTRAMAR 164, Exp. 23 Disciplinary file of Francisco de Paula Astudillo y Ozete showing that he was a member of the School of Sciences of the University of Havana in 1875; and Ortiz, 189.

¹⁰⁶⁸ AHN ULTRAMAR 146, Exp. 28, File of transferring credits of studies of Francisca Rojas from the private School of Santiago Apostle in Havana to the Institute of Santa Clara; and *Revista bimestre cubana, Las primeras mujeres universitarias en Cuba*, Vol. 80 – 83, Issue 8 – 9 (Tipografía Molina, 1998), 137.

Colegio de Abogados upon graduation, probably because in a predominantly patriarchal society her gender continued to be a handicap.¹⁰⁶⁹ Yet, Francisca Rojas was remembered during the following decades as the first Cuban woman lawyer, and subsequent Cuban historiography returned to her case to exemplify the positive evolution of Cuban society in the late nineteenth century concerning the role of females in society.¹⁰⁷⁰ Actually, her case illustrated the lingering discrimination of women in the liberal period.¹⁰⁷¹ Rojas, even after having the qualifications to become a lawyer, remained working in education, a profession where the presence of females was widely normalized, in contrast to the enduring male monopoly over the legal field.

Rojas' thesis addressed some of the legal transformations that had taken place years before and showed the early process of extension of Spanish Civil codes to the island.¹⁰⁷² The topic addressed the development of commerce and, hence, market economy based on modern forms of financial transactions, while it focused on the Commercial Code of 1829, the first Spanish codification extended to Cuba in 1832. Being her mentor José María Carbonell, a positivist professor and Dean, the dissertation of the first female graduated

¹⁰⁶⁹ *Revista Jurídica*, Issue 4 (Departamento de Divulgación del Ministerio de Justicia de la República de Cuba, 1984), 125.

¹⁰⁷⁰ The case of Francisca Rojas appears as a social achievement in documents and magazines of the Cuban republican period (1902 – 1952). For example, see Women lawyer's journal, *The business of the conference*, Vol. 32 – 33 (New York, 1946), 20.

¹⁰⁷¹ Revolutionary historiography of the 1980s in Cuba uses her case to prove gender discrimination in late colonial and liberal Cuba. On this regard, see *Revista Jurídica*, Issue 4 (Departamento de Divulgación del Ministerio de Justicia de la República de Cuba, 1984), 125.

¹⁰⁷² Ortiz, 189. It was titled: "Reforms contained in the Commercial Code of 1829 on acceptance of bills of exchange and endorsement. The original title of the dissertation in Spanish was: "Reformas contenidas en el Código de Comercio de 1829 sobre aceptación de las letras de cambio y endoso."

from the School of Law in Havana was also based on the pragmatic application of the law focusing on codification and the application of its regulations in the practice.

Rojas' tribunal for dissertation was comprised of the Dean of the *Círculo de Abogados* and Chair of Civil Law Leopoldo Berriel, a senior member of Cuban legal community, and two young jurists: José Antolín del Cueto, Chair of Commercial Law, and Antonio Sánchez de Bustamante, Chair of International Law.¹⁰⁷³ Although Berriel directed Rojas' tribunal, his true position regarding women manifested itself publically a few years later when, being the President of the University in 1904, he consulted with Leopoldo Cancio, also a lawyer acting then as Secretary of Public Instruction, whether or not a woman named Luisa Pardo could become a member of the Faculty of Medicine. Berriel, despite being a lawyer himself and knowing the regulations in place, showed concern that Pardo's hiring could be illegal and evidently did not want to take the decision on his own.¹⁰⁷⁴ Eventually Pardo got the faculty position, but if anything her case exemplified how women continued to struggle to climb the social and intellectual ladder in a patriarchal society (with a government dominated in many cases by lawyers), and how law could be used as a potential excuse for exclusion. It also illustrated the moderate positions of some creole liberals that, as Leopoldo Berriel, did not completely support gender integration in a so-called modern society.

Some of the period's periodical publications in Cuba addressed the issue of the education of women and their access to the university. In 1887, *La Voz de Cuba*, the newspaper of the conservative *Unión Constitucional*, invoked the "principles of liberal

¹⁰⁷³ María Dolores Ortiz, *En mitad de cien caminos* (Editorial Felix Varela, 2002), 189.

¹⁰⁷⁴ *Ibid*, 202.

morality” as standard applicable to women’s participation in the labor and public sphere. Conservatives, thus, proposed that women’s incorporation to work should follow “the most strict discipline, based on moral and religious principles.”¹⁰⁷⁵ The conservative media’s approach to a woman’s labor affirmed her condition as model wife and loving mother, and required she should only engage in working activities to meet the economic needs of the family, and not based solely on personal or professional vocation.¹⁰⁷⁶ Considering the limited number of women that actually entered the university, this ideology seemed prevalent across Cuban society.

The process of social transformations in the Cuban university during the 1880s stagnated after 1890 when the number of women enrolled drastically dropped. Available evidence shows that, along with Francisca Rojas in 1893, only other five women graduated at the University of Havana in the 1890s, in other than the Law school.¹⁰⁷⁷ Francisca Rojas, therefore, was the only women who studied law at the University of Havana throughout the nineteenth century paving the way for future generations of women to become lawyers in Cuba effectively during the twentieth century.

¹⁰⁷⁵ *La Voz de Cuba*, La Habana, January 7th, 1887, p. 2, cited in María del Carmen Barcia Zequeira, *Mujeres al Margen de la Historia* (Editorial de Ciencias Sociales, 2009), 3 FN 1. “de la más severa disciplina, calcada en los principios morales y religiosos.”

¹⁰⁷⁶ *La Voz de Cuba*, La Habana, January 4th, 1887, p. 2, cited in María del Carmen Barcia Zequeira, *Mujeres al Margen de la Historia* (Editorial de Ciencias Sociales, 2009), 5.

¹⁰⁷⁷ Ortiz, 197 - 198. María de los Dolores Tió Rodríguez in Philosophy and Letters in 1890, María Teresa Fernandez de Velazco Ramírez and Adelaida Márquez Arriaga in Pharmacy in 1894, Celia Cándida Plasencia Piedra in Dental Surgery in 1895, and Mercedes Sirvén Perez in Pharmacy in 1895.

Conclusion

In 1878, Cuba entered into a period of peace that lasted almost twenty years. During this period, lawyers also reestablished the *Colegio de Abogados* in Havana and other towns across the island, drafting new statutes that abandoned pre-liberal notions such as *limpieza de sangre*, and rather followed the Spanish legislation. This was also perceived as a liberal success since this group fomented the extension to Cuba of Spanish codification. At the same time, this legal reform supported the positivist ideas that existed in the island, and that many liberals had embraced, including the Dean of the *Colegio de Abogados* and scholars from the University of Havana. As a result, a revised plan of study for the legal training in Havana combined with the *Círculo de Abogados* provided a new formation for the Cuban lawyer focused on practical rather than philosophical or theoretical matters. Yet, the struggles to implement the liberal agenda continued, and Spain authorized local political parties being the most important Liberal and the conservative Constitutional Union. Since the line between these parties was not always very clear, different tones of liberalism and conservatism manifested across legal professionals, while some liberal principles adapted to the positivist ideas. One example emerged in the aftermath of the abolition of slavery, a long claim of Cuban liberals that, once achieved in 1886, positivist ideas prevented racial integration based on scientific arguments of ethnic inferiority. Yet, Afro-Cubans gradually incorporated to the Cuban legal community with a first procurador and student law during the 1890s. As well as Afro-Cubans, women had a limited professional participation, in this case based on the patriarchal organization of society; but a first generation of Cuban women earned professional degrees during this period, including one from the School of Law: Francisca Rojas. Most of the transformations during

this period, hence, were limited, and did not meet the expectations of every Cuban across the island. As a result, a new movement to pursue the unfulfilled promises of the liberal agenda would eventually break the peace under the last years of colonial liberalism, inspired on the aspirations and the ideals of independence that still remained in some creoles.

VI. CHAPTER 5. Mutant Liberals: Cuban Lawyers and the Various Interpretations of Liberalism (1895 – 1901)

The current website of the National Organizations of Lawyers of Cuba includes a brief history of the lawyers in the country. In this section, the online page reads: “After the war of 1895 and the establishment of the interventionist American government (...), the military order 500 dissolved the *Colegios de Abogados*, a repressive decision in response to protests led by the *Colegio* in Havana.”¹⁰⁷⁸ This sentence contradicts Louis Pérez when he provides an extensive list of lawyers from Havana that were working as legal counselors for private American corporations after 1898. At the same time, the Secretaries of Justice and Deans of the *Colegio de Abogados* during this period were lawyers with a diverse political range; but that ultimately integrated the interventionist government in Cuba. The life of Domingo Méndez Capote, for example, illustrates the multiple political positions of Cuban lawyers within the last five years of the nineteenth century, and how even former autonomist and independentist joined the American occupation.

In January of 1899, Domingo Méndez Capote, a renowned lawyer from Matanzas, was member of the Assembly of Representatives of the Cuban Republic, the last remnant of the revolutionary government that rose in arms against Spanish colonialism in 1895. Before joining the movement for the independence, Méndez belonged to the ranks of the liberal party and attended autonomist meetings, having also enjoyed of prestige among the members of this political organization. In 1897, Mendez participated of the writing of one

¹⁰⁷⁸ <http://www.onbc.cu/historia>. “Al terminar la guerra de 1895 y establecerse el gobierno interventor de los Estados Unidos (...) se dicta la Orden Militar 500 que disolvió el Colegio de Abogados cubanos, como medida represiva ante un grupo de protestas realizadas por el Colegio de la Habana.”

of the rebels' constitutions and was elected Vicepresident of the Cuban Republic in arms proving his conduct as a civic man. Because of his reputation, Military Governor John Brooke invited Méndez to become his Secretary of State, position that he accepted after resigning his seat at the Cuban Assembly.¹⁰⁷⁹ For the next two years, Méndez Capote was a central figure of the American administration, being elected Dean in 1899 and delegate to write the first national Constitution in 1900, to later become President of this Constituent Assembly.

As the case of Mendez Capote's shows, there was not massive confrontation between lawyers and the American occupation. By the contrary, lawyers, in spite of their different political backgrounds and aspirations, gathered under the interventionist government and actively participated of the processes of state formation and modernization that the American were fomenting on the island. This chapter thus seeks to prove that lawyers who supported either independentist or autonomism joined the American Intervention and tried to implement their diverse agendas from those positions, which created a broad spectrum of political views that ultimately manifested in the Constituent Assembly of 1901. This study also intends to break the monolithic view of lawyers as a professional group during this period, while they rather comprised diverse political, religious, and social views.

¹⁰⁷⁹ See Renee Méndez Capote, *Domingo Méndez Capote; el hombre civil del 95* (La Habana, 1957), and Joaquín Llaverías Martínez, *Elogio del Dr. Domingo Méndez Capote en sesión solemne celebrada el 16 Junio 1935*, Imprenta S. XX, A. Muñoz Hno, Havana, 1935.

Lawyers and the War for Cuban Independence of 1895

Many exiled lawyers returned to Cuba after the Ten Years War. The ideas of separatism, however, were still alive in the minds of some Cubans that had pursued independence from Spain. Among this group was José Martí Pérez. He was born in Havana on January 28th, 1853, and was sent to Spain in 1869 after his involvement in independentist conspiracies at a very young age. During his time in Spain, Martí graduated with a law degree from the University of Zaragoza. Then, he returned to Cuba in 1878. At that time, he tried to obtain authorization to practice as a lawyer in Havana, a request that the *Audiencia* of Havana declined when he did not present the diploma of graduation.¹⁰⁸⁰ Thereafter, Martí initiated a journey through Central and North America that would last several years, time he dedicated to the preparation of a new uprising for Cuban independence.

As part of the preparations for the new war, Martí created a political party with a radical liberal agenda that included the independence of Cuba: the Cuban Revolutionary Party (CRP). Martí proclaimed this party simultaneously in Tampa, Key West and New York on April 10th, 1892.¹⁰⁸¹ The fact that Martí was the leader of this party symbolized the leading role of Cuban lawyers in the political life of the island. In contrast to the previous independentist period, however, lawyers did not massively participated of the organization of the uprising. In reality, Martí, was rather an exception at this time. Most of the original members of the party were exiled Cubans, many of whom mainly worked in tobacco

¹⁰⁸⁰ Green Library Special Collection, Florida International University, Dirección de Cultura de Cuba, *Expediente de José Martí: solicitud para ejercer de abogado*. Publicaciones de la Secretaría de Educación, La Habana, Cuba, 1935.

¹⁰⁸¹ Aurea Matilde Fernández, *José Martí: El Partido Revolucionario Cubano* (Universidad de Oviedo, 1998), xxxv.

factories in Key West, Tampa and New York, the largest Cuban based communities in the United States at the end of the nineteenth century. This marked a social distinction between the organizers of the new uprising and those in the conspiracy of 1867 – 1868: the new revolution was no longer a top – down movement, but a project founded by workers. The main objective of the CRP was to make Cuba totally independent from Spain, as well as to support Puerto Ricans in their fight for the same purpose.¹⁰⁸² The CRP proposed a republican system of government, following the liberal model.¹⁰⁸³ Its basis declared a departure from the colonial system by replacing authoritarianism and bureaucracy with an efficient democracy focused on the individual, honest work, and social forces equality.¹⁰⁸⁴ Those tenets manifested the social compromise of the CRP, and its distinction from those parties operating on the island.

As the leader of the new revolutionary movement, Martí called *naturales* from Cuba to join the insurrection. During the preparations of the war of 1868, Perucho Figueredo and the members of the revolutionary committee in Oriente tried to use their professional network of lawyers to spread the ideas of insurrection across the island. At this time, Martí reached out to former members of the Cuban Army such as Antonio Maceo and Máximo

¹⁰⁸² Bases del Partido Revolucionario Cubano, in Aurea Matilde Fernández, *José Martí: El Partido Revolucionario Cubano* (Universidad de Oviedo, 1998), 5. Article 1: “*El Partido Revolucionario se constituye para lograr con los esfuerzos reunidos de todos los hombres de buena voluntad, la independencia absoluta de Cuba, y fomentar y auxiliar la de Puerto Rico.*”

¹⁰⁸³ Ibid. Article 3. “*El Partido Revolucionario Cubano reunirá los elementos de revolución hoy existentes (...) a fin de fundar en Cuba por una guerra de espíritus y métodos republicanos, una nación capaz de asegurar la dicha durable de sus hijos.*”

¹⁰⁸⁴ Ibid. Article 4. “*El Partido Revolucionario Cubano no se propone perpetuar en la República cubana (...) el espíritu autoritario y la composición burocrática de la colonia, sino fundar en el ejercicio franco y cordial de las capacidades legítimas del hombre, un pueblo nuevo y de sincera democracia, capaz de vencer, por el orden del trabajo real y el equilibrio de las fuerzas sociales, los peligros de la libertad repentina en una sociedad compuesta para la esclavitud.*”

Gómez, as well as Juan Gualberto Gómez and other conspirators inside the island. Calling for *naturales*, Martí was including not only members of certain profession or network, but all those who identified as Cubans and wanted to fight against Spain.

The call for social mobilization against the metropolitan power was heeded by a number of legal professionals. During this period, Martí established connections with several Cubans who travelled to New York and met him in this city, including the lawyer Rafael Portuondo Tamayo. He was an attorney in Santiago de Cuba, and met Martí in New York in 1893. Portuondo became Martí's representative in Santiago de Cuba, and the main leader of the uprising in this territory.¹⁰⁸⁵ Another legal professional that participated of the preparations of the war was the *procurador* Rafael Manduley, from Holguín, who was already identified as separatist and temporarily exiled from Cuba in 1879.¹⁰⁸⁶ At this time, Manduley received the mission to locate and convince former participants of the Ten Years War to continue fighting for Cuban independence.¹⁰⁸⁷ Hence, although legal professionals did not massively involve themselves in the preparation of the new war against Spain, they still had a presence among the organizers of the movement.

While the revolutionaries secretly organized themselves, the other political factions in Cuba continued pursuing their agendas. In 1893, the former Dean of the *Colegio de Abogados* and President of the *Círculo de Abogados* in Havana, Pedro González Llorente, delivered a speech at the inauguration of the *Círculo de Recreo*, a Spanish social institution,

¹⁰⁸⁵ Decree of the Cuban Revolutionary Party dated September 2, 1893 that includes Rafael Portuondo as the local leader in Santiago de Cuba. See United States Congress, Congressional Records: Proceedings and Debates of the American Congress (Printing Office of the Congress, 1898), 275.

¹⁰⁸⁶ AHN ULTRAMAR 4763 Exp. 48. File initiated by the Capitan General of Cuba in 1879 for the prosecution of *procurador* Rafael Manduley and exile to Spain for his insurrectionary background.

¹⁰⁸⁷ Rubén Pérez Nápoles, *José Martí: el poeta armado* (Ediciones Algaba, 2004), 313.

later published under the title “The Reforms and the Ghost.”¹⁰⁸⁸ In this discourse, Llorente supported the liberal reforms, but questioned the separatist ideas still present on the island, referring to them as “the ghost,” to emphasize their sinister condition.¹⁰⁸⁹ In Llorente’s opinion, a country could only be prepared to be independent when it had enough economic development and at least 7 or 8 million inhabitants, two conditions that the island lacked at the moment. Thus, the unionist Llorente made a call to support autonomism to avoid the war that a separatist movement would cause.¹⁰⁹⁰ Llorente’s expression also proved the transition of unionists to autonomism, as an alternative to the independence, and how the liberal solution was gaining traction in Cuba.

In January of 1895, the Spanish liberal Segismundo Moret, father of the abolitionist law of 1870, arranged a cycle of conferences of Cuban political representatives in the Theater *Ateneo* de Madrid. This event received the name “The Contemporary Colonial Problem,” and included seven lectures. Six of the seven speakers were lawyers from Havana, who spoke in the following order: Rafael María de Labra on January 10th, Eliseo Giberga on January 14th, Tiburcio Castañeda on January 17th, Eduardo Dolz on January 19th, Rafael Montoro on January 24th, and José Antolín del Cueto on January 31st.¹⁰⁹¹ Only Emilio Terry, who lectured on January 26th, was not a lawyer, but the owner of the largest sugar-mill in Cuba. In addition, five of the speakers were members of the Liberal Party

¹⁰⁸⁸ Ines Roldan de Montaud, *La restauración en Cuba: el fracaso de un proceso reformista* (Consejo Superior de Investigaciones Científicas, Madrid, 2000), 544.

¹⁰⁸⁹ Yoel Cordovés Nuñez, *Liberalism, Crisis e Independencia en Cuba, 1880 – 1904* (Editorial de Ciencias Sociales, 2003), 80.

¹⁰⁹⁰ Roldan de Montaud, 544; and Cordovés, 80.

¹⁰⁹¹ Marta Bizcarrondo, *Rafael María de Labra: El Problema Colonial Contemporáneo* (Universidad de Oviedo, 1998), XIV – XX.

with the exception of Castañeda, who represented *Unión Constitucional*, and Dolz, who spoke on behalf of the Reformist Party.¹⁰⁹² The cycle of conferences, organized by Spanish liberals, demonstrated the diversity of political ideas in Cuba, with prevalence of liberal positions favorable to autonomism. As for addressing various political positions, the cycle was successful, while it certainly failed at convincing the Spanish government to authorize the autonomic regime Cuban liberals desired to have. In the meantime, the revolutionaries were in the last stages of the organization of a new military movement for the island's independence.

The uprising finally took place on February 24th, 1895 in the Eastern city of Baire. Originally planned by Martí as a simultaneous uprising, multiple towns were expected to rise in arms the same day. Lack of coordination, however, did not make this possible, although military events did take place across a far number of regions across the island, including Bayamo, Manzanillo, Santiago and Jiguaní in the East, and Jagüey Grande and Aguada de Pasajeros in central Cuba. Other territories, such as Havana, did not raise, mostly because Spanish authorities apprehended the leader of the revolt in the West, Julio Sanguily, the morning of the uprising. In any case, the war against Spain had started anew, once more with concentration in Eastern Cuba.

Peninsulares condemned the uprising, and proposed different alternatives to resolve the crisis. Former leader of *Unión Constitucional*, Márquez de Apezteguía, suggested a political solution to preserve the peace, similar to the mediation of Martínez Campos in 1878. The new leader of the party, Marqués de Pinar del Río, on the contrary, supported a

¹⁰⁹² Bizcarrondo, XXII. This group split from *Unión Constitucional* in 1893, and criticized the conservative radicalism of *unionistas*.

military and aggressive response to the insurgents.¹⁰⁹³ This policy eventually prevailed and determined the dismissal of Martínez Campos as Captain General, and the arrival of Valeriano Weyler in 1896. As in 1868, the Corps of Voluntaries of Havana took to the streets of Havana and demanded radical actions against the revolutionaries, including the death penalty for Julio Sanguily, which he barely escaped because of his American citizenship.¹⁰⁹⁴ One of the judges in the process was the former conservative candidate for the Chair of Criminal Law in 1890, José Novo.¹⁰⁹⁵

The Liberal Autonomist Party also opposed the revolutionary outbreak. On April 4th, 1895, some members of the party published a signed proclaim in the newspaper *La Lucha*. In this declaration, Cuban liberals identified as the only and legal political organization of opposition on the island, and expressed that they still trusted the constitutional mechanisms to achieve their goals.¹⁰⁹⁶ The document had thirty-seven signatures, thirty of which came from lawyers, also members of the *Colegio de Abogados* in Havana, including former Deans José María Bruzón, José María Carbonell, and José Hernández Abreu.¹⁰⁹⁷ By

¹⁰⁹³ Roldan de Montaud, 610. The Marquez de Pinar del Río became the leader of Union Constitucional on January 23rd, 1895.

¹⁰⁹⁴ Sanguily escaped the death penalty by using his American citizenship because Spain did not want this country involved in the conflict, and the court signed for a conviction of exile in the United States.

¹⁰⁹⁵ José Ignacio Rodríguez, *The Case of the Arrest, Trial and Sentence in the City of Havana, Island of Cuba of Julio Sanguily: A Citizen of the United States of America* (Press of W.F. Roberts, Washington DC, 1897), 79.

¹⁰⁹⁶ *La Lucha*, Havana, April 6th, 1895 in Marta Bizcarrondo, *Rafael María de Labra y otros: El Problema Colonial Contemporaneo* (Universidad de Oviedo, 1998), 293 – 297.

¹⁰⁹⁷ *Ibid*, 297. The lawyers were: José María Galvez, Carlos Saladrigas, Juan B. Armenteros, Luis Armenteros Labrador, Manuel Rafael Angulo, José Bruzón García, José María Carbonell, José de Cárdenas Gassie, Raimundo Cabrera, Leopoldo Cancio Luna, José A. del Cueto, Pedro Esteban González Larrinaga (Marques de Estrada), Rafael Fernández de Castro, Carlos Font y Sterling, José Fernández Pellón, Antonio Govín, Eliseo Giberga, José María García Montes, José Hernández Abreu, José Silverio Jorrín, Manuel Francisco Lamar Portillo, Federico Martínez Quintana, Rafael Montoro, Antonio Mesa Dominguez, Ramón Pérez

contrast, other lawyers and members of the party such as Fernando Freyre de Andrade, Domingo Méndez Capote and Antonio González Lanuza joined the insurrection.¹⁰⁹⁸ The existence of diverse positions among the members of the party proved that the liberal movement was not uniform, and that the fight was not only against Spanish colonialism and its supporters, but also against moderate liberals on the island. That group's open and public opposition to the beginning of a new revolution suggested the similarity between a faction of the liberal party and the *unionistas*, both opposed to Cuba's separation from Spain.

During the months that followed the uprising, leaders of the former Cuban Army stealthily returned to the island. On April 1st, 1895 Antonio Maceo and other men landed in Playa de Duaba, while Martí and Máximo Gómez disembarked by Playitas de Cajobabo on April 11th. Once all the main leaders were in Cuban soil they decided to gather and discuss the plans for the revolution. The initial meeting took place at the sugar-mill La Mejorana, near the Eastern town of San Luis, on May 5th, 1895.¹⁰⁹⁹ In this meeting, the revolutionaries ratified Martí as the ideological leader of the movement while Gómez and Maceo would lead the Army as First and Second General, respectively. They also agreed to the establishment of a republican revolutionary government, as had already happened in Guáimaro in 1869. The anxiety for democracy and republicanism manifested again among radical liberal Cubans.

Trujillo, Leopoldo Sola Iradi, Emilio Terry, Manuel Francisco Viondi Rodríguez, Francisco Zayas Bazán, and Carlos de Zaldo.

¹⁰⁹⁸ Biographical information about them is available later in this chapter.

¹⁰⁹⁹ Alfred J. López, *José Martí: A Revolutionary Life* (University of Texas Press, 2014), 315.

An unexpected success happened on May 19th, 1895. While traveling across Eastern Cuba to join the main revolutionary forces, the troops that accompanied José Martí entered in combat with a Spanish squad in Dos Ríos, in the Province of Oriente. At first, Martí remained at the military camp; but he ultimately decided to engage in the fight. Inexperienced in the battlefield and lacking military training or skills, Martí lost his life when Spanish troops shoot him at point-blank range.¹¹⁰⁰ This turn of events deprived the new revolution of its main ideologue. The ideas of democracy and republicanism, however, survived.

Having learned about the death of José Martí, Gómez ordered Maceo to gather the military leaders operating in the East. A large meeting took place on May 27th, 1895 in the Eastern locality of Bijarú with the attendance of more than twenty men, including attorney Rafael Portuondo Tamayo and *procurador* Rafael Manduley. Legal professionals continued being part of the revolutionary movement, although their concentration greatly reduced with respect to the previous war when most of the participants in the preparatory meetings, sometimes all of them, were lawyers. They agreed to create a republican revolutionary government to organize the territories under the rebels' control.¹¹⁰¹

After few months of preparation, the revolutionaries met in Jimaguayú, in the Province of Puerto Príncipe, on September 13th, 1895. The Constitutional Assembly in Jimaguayú consisted of twenty deputies from all the territories of the island. The President of the Assembly was the former President of Cuba in Arms and leader of the revolutionaries from

¹¹⁰⁰ López, 319.

¹¹⁰¹ See Ramiro Guerra, *A History of the Cuban Nation: Autonomism, War of Independence (1868 – 1902)*, (Editorial Historia de la Nación Cubana, 1958), 223; and José Luciano Franco, *Antonio Maceo: Apuntes para una Historia de su Vida*, Vol. 2, Editorial de Ciencias Sociales e Instituto Cubano del Libro, 1973.

Puerto Príncipe Salvador Cisneros Betancourt. Among the participants there were three legal professionals: *procurador* Rafael Manduley del Río, who was the Vice-President of the Assembly, and lawyers Rafael Portuondo and Severo Piña Marín.¹¹⁰² Piña was born in Sancti Spiritus and had graduated from the school of law at the Universidad Central in Madrid in 1880.¹¹⁰³ After being a lawyer for more than a decade, Piña joined the revolution in September of 1895.¹¹⁰⁴ The number of legal professionals that attended Jimaguayú was lower than the one who attended Guáimaro when four legal professionals (three lawyers and one *procurador*) participated of that constituent assembly in 1869.¹¹⁰⁵ This factor suggests that lawyers, and legal professionals in general, were not playing the same key role in the new revolution than in the period 1868 – 69.

After three days of deliberation, the revolutionaries adopted the third separatist constitution, after the ones issues in Guáimaro, in 1869, and Baraguá, in 1878. The Constitution of Jimaguayú had twenty-four articles and focused on the organization of the civil government and its attributions. The government comprised the President, the Vice-President, and four Secretaries: War, Interior, Foreign Relations and Treasury, which

¹¹⁰² Report Accompanying Senate Joint Resolution 163 for the Recognition of Cuban Independence, Committee on Foreign Relations, (United States Congress, 1896), 86.

¹¹⁰³ AHN UNIVERSIDADES 4596, Exp 10. Academic file of Severo Piña Marín, student of the Universidad Central in Madrid between 1877 and 1889.

¹¹⁰⁴ See *Guías de Forasteros de la Isla de Cuba* between 1880 and 1884 listing Severo Piña as one of the lawyers working in Sancti Spiritus during this period.

¹¹⁰⁵ The members of the Constituent Assembly were President Salvador Cisneros Betancourt, Vice-president Rafael Manduley del Río, Raimundo Sanchez Valdivia, Lope Recio Loynaz, Francisco López Leiva, Francisco Díaz Silveira, Rafael María Portuondo, Fermín Valdés Domínguez, Santiago García Cañizares, Pedro Piñón de Villegas, Enrique Loynaz del Castillo, Joaquín Castillo, Mariano Sanchez Vaillant, Severo Piña Marín, Pedro Aguilera Kindelán, Enrique Céspedes, Rafael Pérez Morales, and Secretaries José Clemente Vivanco and Orencio Nodarse. See Colectivo de Autores, *Colección de Constituciones Cubanas del Siglo XIX* (Linkgua Digital, Barcelona, 2014), 19.

formed the Council of Government.¹¹⁰⁶ Each Secretary would also have a Sub-secretary. The judicial branch was independent.¹¹⁰⁷ This constitution did not include any recognition of civil freedoms. The last article explained its provisional condition and that it would only last two years when a new constitution should be drafted if the revolution was still in process.¹¹⁰⁸ Short in the recognition of liberal individual rights and establishing a centralized government, the Constitution of Jimaguayú seemed to have tried to avoid the excessive republicanism created in Guáimaro that became an obstacle for military actions. Yet, the elective government and the ideal of independence ratified its liberal stance, and its inspiration on the program of the CRP.

The revolutionary government constituted in Jimaguayú included a small number of legal professionals. The elected President was Salvador Cisneros Betancourt and the Vicepresident Bartolome Masó, and none of them had studied law, while only two of the four secretaries were lawyers: Severo Piña Marín, Secretary of Treasury, and Rafael Portuondo, Secretary of Foreign Relations.¹¹⁰⁹ *Procurador* Rafael Manduley joined the

¹¹⁰⁶ Constitución de Jimaguayú, Article 1. “*El gobierno supremo de la república residirá en un Consejo de Gobierno, compuesto de un Presidente, un Vicepresidente, y cuatro Secretarios de Estado, para el despacho de los asuntos de Guerra, Interior, Relaciones Exteriores y de Hacienda.*”

¹¹⁰⁷ Constitución de Jimaguayú, Article 2. “*Cada Secretario tendrá un Subsecretario de Estado para suplir los casos de vacante.*” Article 23 “*El Poder Judicial procederá con entera independencia de todos los demás, su organización y reglamentación estarán a cargo del Consejo de Gobierno.*”

¹¹⁰⁸ Constitución de Jimaguayú, Article 24. “*Esta constitución regirá a Cuba durante dos años a contar desde su promulgación si antes no termina la guerra de independencia. Transcurrido este plazo se convocará a Asamblea de Representantes que podrá modificarla y procederá a la elección de nuevo Consejo de Gobierno y a la censura del saliente.*”

¹¹⁰⁹ The government was as follows: Secretary of War: Carlos Roloff and Sub-secretary: Mario García Menocal, Secretary of Treasury: Severo Piña Marín and Sub-secretary: Joaquín Castillo, Secretary of Interior: Santiago García Cañizares and Sub-secretary: Carlos Dubois, and Secretary of Foreign Relations: Rafael Portuondo and Sub-secretary: Fermín Valdés Domínguez. See United States Congress, *Congressional Records: Proceedings and Debates of the American Congress* (Printing Office of the Congress, 1898), 275.

government few months later, when he replaced the engineer Mario Menocal as Sub-secretary of War on May 21st, 1896.¹¹¹⁰ The composition of this government contrasted with the one that Carlos Manuel de Céspedes formed in 1869 with a high concentration of lawyers, especially from his professional network of the *Colegio de Abogados* of Bayamo.

Following the tradition from Guáimaro, the government of Jimaguayú also issued laws to rule in the freed territories. Among others, on October 18th, 1895, the Cuban Republic in Arms regulated the administrative, political and military organization of the island.¹¹¹¹ This law modified the 1878 Spanish distribution of territories in six provinces, establishing a new order based on four states: Oriente, Camaguey, Las Villas o Cubanacán and Occidente.¹¹¹² The law implemented a federal system as a form of liberal decentralization, questionable for a relatively small territory like the island of Cuba; but consistent with the ideals of change that inspired the revolution against the Spanish establishment.

Although legal professionals were not numerous among the main leaders of the new revolutionary movement, some lawyers from Havana eventually joined the Cuban troops.¹¹¹³ Rafael de Cárdenas Benítez and Armando J. Riva Hernández joined the insurrection in May and November of 1895, serving as Secretaries of Generals Máximo

¹¹¹⁰ Exhibit 15 in United States Congress, *Congressional Records: Proceedings and Debates of the American Congress* (Printing Office of the Congress, 1898), 275.

¹¹¹¹ Collection of Speeches of John Tyler Morgan, *Compendium of Documents: Belligerent Rights for Cuba* (Congress of the United States, 1897), 87 – 89.

¹¹¹² *Idem*, 87. “Article 1. The republic of Cuba comprises the territory occupied by the island of Cuba from Cape San Antonio to Point Maisí and the adjacent islands and keys. Article 2. This territory shall be divided into four portions or states, which will be called Oriente, Camaguey, Las Villas o Cubanacán, and Occidente.”

¹¹¹³ Mario Riera Hernández, *Cuba Libre 1895 – 1958: Resumen Histórico* (Colonial Press of Miami, 1968), 6.

Gómez and Calixto García, respectively.¹¹¹⁴ Other lawyers did not limit themselves to clerical services in the Army, but engaged in active military command. This was the case of Fernando Freyre de Andrade, born on September 10th, 1863, and a Madrid 1885 law graduate.¹¹¹⁵ Although he had initiated a career within the judiciary as substitute *fiscal* of the Audiencia of Havana in 1890, and substitute magistrate in 1894, Freyre de Andrade abandoned Cuba in 1895 to join the CRP in New York. Although a member of the local aristocracy, Freyre de Andrade was a critic of the Spanish administration of Cuba and, as others lawyers of his generation, decided to fight for Cuban independence. In 1896, Freyre de Andrade returned to Cuba and joined the forces of Máximo Gómez as Chief of Cavalry.¹¹¹⁶ In the same line, Aurelio Hevia Alcalde was also born in Havana in 1866 and, after various years working as an attorney, joined the uprising in 1896 to become one of the military leaders in the East.¹¹¹⁷ Notice that in both cases we are dealing with young members of the profession, the generation of Cuban lawyers that educated in the aftermath of the first war for Cuban independence.

Lawyers from other Cuban territories also raised in arms against Spain. From Pinar del Río, José Antonio Caiñas joined the revolutionary army in 1896, although he left the

¹¹¹⁴ Mario Riera Hernández, *Ejército Libertador de Cuba, 1895 – 1898: Antecedentes Históricos, Fotos y Biografías de Mayores Generales y Generales de División y Brigadas* (Colonial Press of Miami, 1985), 169 – 170, and 254 – 255.

¹¹¹⁵ AHN UNIVERSIDADES 6522 Exp. 12, and UNIVERSIDADES 4032 Exp. 20, Academic files of Fernando Freyre de Andrade Velazquez as student of the Universidad Central in Madrid.

¹¹¹⁶ William Belmont Parker, *Cubans of Today: Hispanic Notes and Monographs*, Hispanic Society of America, Vol. I (G.P. Putnam's Sons, New York and London, 1919), 182.

¹¹¹⁷ *Cubans of Today*, 621.

country shortly after for a mission in Veracruz.¹¹¹⁸ Native from Matanzas, Juan Manuel Menocal Fernández de Castro was born in 1870, graduated from the University of Havana in 1894, and joined the Cuban Army in 1896, remaining in Western Cuba most of the time.¹¹¹⁹ From Holguín, Manuel Rodríguez Fuentes joined the conspiracy in New York and, upon his return in 1896, served as Chief of Staff of Calixto García in the East.¹¹²⁰ Eventually, more legal professionals, even law professors, incorporated themselves to the fight across the island.

Members of Cuban legal academy also joined the revolution in 1895, such as scholars José Antonio González Lanuza, Domingo Méndez Capote, and Ricardo Dolz. González Lanuza, Chair of Criminal Law at the University of Havana in 1891, engaged in the conspiracies in 1895 until he was apprehended shortly after, which resulted in a two years imprisonment in Ceuta.¹¹²¹ Méndez Capote, who was born in Cárdenas in 1863, became a prominent lawyer in Havana after his graduation in 1888, and taught at the University of Havana as a substitute professor of the School of Law between 1890 and 1895.¹¹²² In 1894, Méndez Capote joined the CRP and, after the uprising, left Havana and joined the insurgent army under the command of Máximo Gómez. A third example was Ricardo Dolz, chair of

¹¹¹⁸ Dalia Antonia Muller, *Cuban Émigrés and Independence in the Nineteenth Century Gulf World*, (University of North Carolina Press, Chapel Hill, 2017), 39.

¹¹¹⁹ *Cubans of Today*, 417 - 418.

¹¹²⁰ Felipa Suarez Ramos and María Luisa García, *Diccionario Enciclopédico de Historia Militar Cubana (1510 – 1898)*, Ediciones Verde Olivo, 2004.

¹¹²¹ AHN ULTRAMAR 169, Exp. 10, Provision of José Antonio González Lanuza as Chair of Criminal Law at the University of Havana in 1891. AHN ULTRAMAR 264 Exp. 3, Taking possession and dismissal as Chair of Criminal Law of José Antonio González Lanuza in 1896.

¹¹²² Rafael Nieto Cortadellas, *Genealogías Habaneras*, Vol. 2 (Ediciones Hidalguía, 1979), 68.

Legal Procedure since 1893, who abandoned his post to raise funds for the revolution in 1895.¹¹²³

Lanuza was not the only lawyer sent to Ceuta for *infidencia*, there were at least two other *letrados* who suffered a similar fate: Alfredo Zayas Alfonso and José Saez Medina.¹¹²⁴ Zayas was born in Havana in 1861, and graduated from the School of Law in Cuba in 1882.¹¹²⁵ In the early 1890s, Zayas abandoned the Autonomist Party for the CRP, reason why he was captured after the uprising and sent to Ceuta in 1896.¹¹²⁶ Saez, on the other hand, was a *natural* from Cárdenas, and had his law firm in this town. When Spanish authorities unveiled his connections with the independentist movement, they initiated his prosecution and sent him to jail in 1896.¹¹²⁷ Although their imprisonment kept them from actually engaging in the fight, they could be counted among the island's revolutionary lawyers.

Among those who joined the revolution there also were the first Afro-descendants who just recently had began their legal careers or studies in Cuba: *procurador* Manuel Bergues Pruna, and the student of law Juan Tranquilino Latapier. Bergues joined the Cuban Army in the East, and started operating in that territory under the command of José Maceo.

¹¹²³ AHN ULTRAMAR 261, Exp. 13 and 14. These files contain the orders appointing Ricardo Dolz Chair of the Civil, Criminal, Administrative and Canon Procedure by opposition at the University of Havana in 1893; and William Belmont Parker, *Cubans of Today* (G.P. Putnam's Sons, New York and London, 1919), 501.

¹¹²⁴ Raimundo Cabrera, *Cuba y América: Revista Ilustrada*, Vol. 1, September 1st, 1897, 5.

¹¹²⁵ ANC, Register of the *Colegio de Abogados* in Havana, 1879 – 1900.

¹¹²⁶ Raimundo Cabrera, *Cuba y América: Revista Ilustrada*, Vol. 1, September 1st, 1897, 5.

¹¹²⁷ Decree 612, signed Havana, September 25th, 1896, by Captain General Valeriano Weyler. See English translation in *Foreign Relations of the United States Report* (United States Government Printing Office, 1897), 654 – 655.

Because of his achievements, Bergues led military operations and was promoted to the rank of Captain.¹¹²⁸ On May 1st, 1896, however, Bergues passed away after injuries he received in combat two days earlier.¹¹²⁹ Latapier, on the other hand, engaged in conspiracies in Havana and, along with other revolutionaries, was deported to Spain, which put on hold his legal studies.¹¹³⁰ These events were a setback in the process of racial integration within the legal community, still under the control of white local elites. In any case, it symbolized that also Afro-Cuban legal professionals had opted for the revolution as a way to achieve a more progressive liberal Cuban society.

Although lawyers incorporated themselves to the armed struggle, their participation in this period's revolutionary upheaval was not as massive as it had been twenty-seven years earlier. In 1868, lawyers were the leaders of the government in the East and actively disseminated the ideas of the insurrection throughout the island by means of their professional networks. *Colegio de Abogados* were centers of conspiracy and some of them, such as the ones in Bayamo and Puerto Príncipe, disappeared during the war. Lawyers constituted the revolutionary government and issued laws to rule on the liberated territories. In 1895, in contrast, the incorporation of legal professionals was rather scarce, and their professional organizations did not cease to exist but continued in operations, which was the case of the *Colegio de Abogados* in Havana. Nevertheless, the existence of a war and

¹¹²⁸ Raúl Rodríguez La O, *Ramón Leocadio Bonachea y la Independencia de Cuba* (Editorial Ciencias Sociales, 2007), 155; and *Revista Bimestre Cubana*, Vol. 48, Issue 1, (Havana, 1941), 109.

¹¹²⁹ Carlos E. Forment, *Crónicas de Santiago de Cuba: Continuación de la Obra de Emilio Bacardí*, Vol. 1 (Editorial Arroyo, 1953), 38.

¹¹³⁰ Aline Helg, *Our Rightful Share: the Afro-Cuban Struggle for Equality, 1886 – 1912* (University of North Carolina Press, 1995), 130.

its impact on the Cuban society at large unquestionably involved legal professionals all over the island and in the capital as well.

Between 1895 and 1897, the *Colegio de Abogados* of Havana remained in operation; but it functioned differently than during the period of peace from 1879 to 1894. Many of its illustrious members, who were affiliated to the Autonomist Party, condemned the uprising.¹¹³¹ Records show, however, that, during the first two years of the war, the *Colegio* had its lowest enrollment since its opening in 1879 with only 11 incorporations in 1895, and 8 others in 1896.¹¹³² In addition, there were no more registered separations and only 1 *baja*, on January 3rd, 1896.¹¹³³ Then, it seems that the *Colegio* tried to preserve its members, especially when many lawyers started leaving Cuba. A first wave of lawyers left the island for the United States and other destinations to raise funds in support of the revolution. This was the case of Ricardo Dolz, Antonio Freyre de Andrade and José González Lanuza, to list but a few examples.

Other lawyers abandoned Cuba to avoid the war and the Spanish repression. In 1896, the Spanish government sent Valeriano Weyler to replace Arsenio Martínez Campos as Captain General of Cuba. Martínez Campos had pacified the island in 1878 and established a conciliatory regime the following year. This system ultimately failed when the uprising of 1895 proved that the conflicts between Cuba and Spain remained unresolved. Then, Madrid decided to change Martínez Campos' persuasive methods in favor of Weyler and

¹¹³¹ *La Lucha*, Havana, April 6th, 1895 in Marta Bizcarrondo, *Rafael María de Labra y otros: El Problema Colonial Contemporáneo* (Universidad de Oviedo, 1998), 293 – 297.

¹¹³² ANC, Register of the *Colegio de Abogados* in Havana, 1879 – 1900.

¹¹³³ The person withdrawing was Bernabé Cicero Cabrera, who apparently relocated to Guane and eventually became Property Register in this town. See ANC, Register of the *Colegio de Abogados* in Havana, 1879 – 1900.

his, later infamous, policy of *reconcentración*. This strategy consisted of the creation of concentration camps in provincial cities reducing the support that rural population provided to the Cuban Army.¹¹³⁴ Some lawyers, such as Wenceslao Gálvez, rejected this Spanish plan, and decided to leave Cuba for the United States.

Wenceslao Gálvez, who was brother to the leader of the Autonomist Party José María Gálvez, relocated to Tampa in 1896. He described this experience in his novel “Tampa: Impressions of an Émigré” (1897), where Gálvez states that he abandoned the island in disagreement with Weyler’s repressive system, along with many other Cubans who, in an attempt to run away, applied for passports. “The soft policy ... of Martínez Campos could be considered as a failure. Weyler’s policy was indispensable to drown the revolution in blood ... He had not set foot on [Cuba] ... and already the officials of the Regional Government were not sufficient to process the requests of passports (...). It is preferable to die on foreign soil, and experience misery, or hunger, that to live in an island governed by a Spain that entrusts Weyler the task of representing it.”¹¹³⁵ While José María Gálvez and the autonomists remained in Cuba trying to preserve their role in local politics, Wenceslao and others left, proving how even lawyers of the same liberal family had different reactions to and interpretations of the events taking place in Cuba.

¹¹³⁴ John Lawrence Tone, *War and Genocide in Cuba, 1895 – 1898* (University of North Carolina Press, 1006), 153.

¹¹³⁵ Wenceslao Galvez del Monte, *Tampa: Impresiones de Emigrado* (Establecimiento Tipográfico Cuba, Tampa, 1897), 7. “*La política suave (...) de Martínez Campos podía darse por fracasada. Era indispensable la política de Weyler para ahogar en sangre la revolución (...) No había puesto pie en tierra (...) y ya las oficinas del Gobierno Regional no daban abasto para el despacho de pasaportes (...) Se prefer morir en suelo extranjero, de miseria, de hambre, antes de vivir en una isla gobernada por la España que encomienda a Weyler el encargo de representarla.*”

The lack of enrollment in the *Colegio*, combined with the migration of legal professionals, had an impact on the number of available lawyers. In Havana, for example, there were 284 *colegiados* in 1890 including 252 lawyers with *estudio abierto* and 32 other who were not practicing.¹¹³⁶ By 1897, the number of *colegiados* reduced to 215, just 169 of whom practiced the profession and 46 who were unavailable for various reasons, including physical absence from the city.¹¹³⁷ Thus, the number of *colegiados* in Havana diminished by about a quarter and the number of lawyers working in the city decreased by a third within two years. Similarly to what happened after 1868, the community of legal professionals significantly declined in Cuba under the effects of the war. However, the leadership that liberals had acquired since 1879 within the *Colegio* survived, and a moderate Cuban-born lawyer remained as the leader of the legal community during the war.

The Dean of the *Colegio de Abogados* in Havana since 1894 was Juan Bautista Hernández Barreiro. A graduate from the School of Law in Madrid in 1867, Hernández Barreiro returned to Cuba in 1869, where he started working as lawyer, joining the faculty of the University of Havana as *supernumerario* of Legal Procedure and in the first course of Roman Law.¹¹³⁸ In 1871, he was appointed as Chair of the second course of Roman Law, vacant upon death of the revolutionary Diego José de la Torre.¹¹³⁹ Affiliated to the

¹¹³⁶ BNC *Lista de los Abogados del Ilustre Colegio de la Habana con expresión del número de antigüedad y domicilio* (Imprenta Las Artes, Monte 49, 1890), 34 - 36.

¹¹³⁷ BNC *Lista de los Abogados del Ilustre Colegio de la Habana* (Imprenta La Australia, Havana, 1897), 24 – 26.

¹¹³⁸ AHN UNIVERSIDADES 4240, Exp. 11. Academic file of Juan Bautista Hernández Barreiro, student of the *Universidad Central* in Madrid, *Guias de Forasteros*, 1869 - 70.

¹¹³⁹ ULTRAMAR 264, Exp. 11. Personal file of the Chair of the University of Havana Hernández Barreiro.

Liberal Party, Hernández Barreiro did not sign the proclamation condemning the uprising of 1895. On the contrary, he was a high ranked member of Cuba's masonry, organization that traditionally supported Cuban independence since the beginning of the nineteenth century.¹¹⁴⁰ Yet, Hernández Barreiro was a moderate who did not take radical political positions, remaining instead as both part of the colonial establishment and the head of the lawyers in the capital until the end of 1897.¹¹⁴¹

After two years of war, the fight had expanded across the island. In spite of the efforts of Captain General Weyler, the war continued and the Cuban forces gained wider support, as Spain became increasingly associated with the repression and genocide linked to the use of concentration camps. On the contrary, liberalism gained supporters as a reaction to Weyler's unpopular methods, either in its guise as independentism or autonomism, an alternative to preserve a Spanish Cuba. Hence, 1897 provided the perfect context for the legal materialization of both projects in two constitutions enacted within a short span of time, but inspired by a mutually distinct political philosophy.

In compliance with the article 24 of the revolutionary Constitution of Jimaguayú, a new constituent assembly gathered in 1897. It must be remembered that the article provided that, if after two years the war for independence has not ended, a new Constitution should replace the one of Jimaguayú.¹¹⁴² Hence, the revolutionary government called for the

¹¹⁴⁰ Dominique Soucy, *Masonería y Nación: Redes Masónicas y Políticas en la Construcción Identitaria Cubana (1811 – 1902)*, (Ediciones IDEA, Spain, 2006), 336.

¹¹⁴¹ Eduardo Torres Cuevas, *La masonería en Cuba durante la primera república, 1902 – 1933*, at José Antonio Ferrer Benimelli (coordinator), *La masonería en la España del siglo XX*, Vol. 2 (Editorial de la Universidad de Castilla La Mancha, 1996), 514.

¹¹⁴² Constitution of Jimaguayú, article 24: “Esta constitución regirá a Cuba durante dos años a partir desde su promulgación, si antes no termina la guerra de independencia.”

writing of a new constitution. The meeting took place in La Yaya, in central Cuba, and it had 24 constituents with representatives elected from each Cuban territory.¹¹⁴³

The constituent assembly of La Yaya had more individuals with legal training than any other previous one. In 1897, Eight of the representatives had attended law school: José Braulio Alemán, Carlos Manuel de Céspedes Quesada, José Fernández Rondán, Fernando Freyre de Andrade, Aurelio Hevia, Domingo Méndez Capote, Manuel Rodríguez Fuentes, and Cosme de la Torriente.¹¹⁴⁴ Among them, José Braulio Alemán was the main drafter of the constitution. Born in Santa Clara on March 26th, 1864, Alemán studied law at the University of Havana, but abandoned his legal career to work as a journalist. Thereafter, he managed the newspaper *La Defensa* in Santa Clara and created an information network that was eventually used as a source of intelligentsia during the war.¹¹⁴⁵ Also very active in the drafting of the constitutional text, Cosme de la Torriente was born in Jovellanos, territory of Matanzas, in 1872, and studied law in Havana in the early 1890s. Shortly upon graduation, Torriente left Cuba for the United States to become a member of the CRP. After some struggles during his journey back to the island, he finally disembarked in

¹¹⁴³ The members of the Constituent Assembly in La Yaya were Nicolás Alberdi, José Braulio Alemán, Manuel F. Alfonso Seijas, Lucas Alvarez Cerice, Carlos Manuel de Céspedes Quesada, Salvador Cisneros Betancourt, Enrique Collazo Tejada, Manuel Despaigne, José Fernández de Castro, José Fernández Rondán, Ernesto Fonts Sterling, Fernando Freyre de Andrade, Eusebio Hernández Pérez, Aurelio Hevia, José Lactet Morlot, Domingo Mendez Capote, Pedro Mendoza Guerra, Andrés Moreno de la Torre, Tomás Padrón Griñán, Lope Recio Loynaz, Manuel Rodríguez Fuentes, Manuel R. Silva, and President of the Assembly Cosme de la Torriente.

¹¹⁴⁴ Mario Riera Hernández, *Cuba Libre 1895 – 1958: Resumen Histórico* (Colonial Press of Miami, 1968), 13 - 14.

¹¹⁴⁵ Spencer Tucker, *The Encyclopedia of the Spanish American and Philippines-American Wars: A Political, Social, and Military History*, Vol. 1 (ABC-CLIO, 2009), 10 – 11.

Eastern Cuba to join the troops of Calixto García in 1896.¹¹⁴⁶ Within the group of lawyers in La Yaya also was Carlos Manuel de Céspedes Quesada, son of the former President and leader of the revolution in 1868, his namesake Carlos Manuel de Céspedes. He was born in 1871 and, during the exile of his family in Europe, attended the Stanislas Institute in Paris receiving degrees in International Law and Diplomacy.¹¹⁴⁷ After learning about the uprising, Céspedes joined the revolution following on the footsteps of his father. Although they all shared legal training of some kind, these examples show how the lawyers that gathered in La Yaya had different backgrounds and social origins.

The Constitution of La Yaya with 48 articles was the longest of the Constitutions enacted by Cuban revolutionaries. Title I regulated issues concerning territory and citizenship. Title II covered the individual's rights, including multiple fundamental rights such as freedom of religion, speech, association and privacy, the right to education, correspondence, and to vote, among others.¹¹⁴⁸ Contrasting with the Jimaguayú text rather silent on these matters, La Yaya was the revolutionary constitution that provided the largest number of individual rights. These rights and freedoms, however, were not exclusive to the territories under the Cuban Republic in Arms since the Spanish Constitution of 1876 had actually regulated many of them, such as freedom of speech, association and privacy, which also applied to Cuba in its condition as a Spanish province. Hence, they were not

¹¹⁴⁶ For Cosme de la Torriente's testimony on his participation of the drafting of the Constitution of La Yaya, see Cosme de la Torriente, *La Constituyente de La Yaya: discurso leído en la sesión pública celebrada el día 30 de Octubre de 1952*, Imprenta El Siglo, Havana, 1952.

¹¹⁴⁷ Eduardo Chao, *Raíces Cubanas* (Dupont Circle Editorial, 2016), 275.

¹¹⁴⁸ Constitución de La Yaya, articles 4 – 14.

completely new. In fact, one could even say that some of those articles in the revolutionary Cuban Constitution found their inspiration in the Spanish one.

Some rights included in the La Yaya text are similar to analogous articles in the Spanish Constitution of 1869. For example, article 9 of the Spanish Constitution reads: “*ningún español puede ser compelido a mudar de domicilio o residencia en virtud de mandato de autoridad competente;*” while article 12 of La Yaya states: “*ningún cubano puede ser compelido a mudar de domicilio, sino por decision judicial.*”¹¹⁴⁹ Article 7 of the Spanish Constitution rules: “*no podrá detenerse ni abrirse por la autoridad gubernativa la correspondencia confiada al correo;*” and the article 5 of La Yaya dictates: “*ninguna autoridad podrá detener ni abrir correspondencia oficial o privada, salvo con las formalidades que establezca la ley.*”¹¹⁵⁰ To give just one more example, article 6 of the Spanish Constitution says: “*nadie podrá entrar en el domicilio de un español o extranjero residente en España sin su consentimiento salvo en los casos y forma expresamente prevista en las leyes;*” and article 11 of La Yaya states: “*nadie podrá penetrar en el domicilio ajeno sino cuando trate de evitar la comisión de un delito, estando al efecto competentemente autorizado.*”¹¹⁵¹ Thus, Spanish liberalism and legal thinking had a clear influence over the drafters of the Cuban Constitution. One of the possible reasons was the legal training that some of the representatives received during the 1880s and 1890s in Cuba

¹¹⁴⁹ “No Spaniard can be compelled to change his address or residence by virtue of the mandate of the competent authority” and “No Cuban can be compelled to change his address, but by judicial decision.”

¹¹⁵⁰ “The correspondence entrusted to the mail cannot be stopped or opened by the governmental authority” and “No authority may stop or open official or private correspondence, except with the formalities established by law.”

¹¹⁵¹ “No one may enter the domicile of a Spaniard or foreigner resident in Spain without their consent except in the cases and expressly provided for in the laws” and “No one may enter in a foreign domicile except when he tries to avoid the commission of an offense, being competently authorized for that purpose.”

or Spain, where they were taught the Spanish Constitution of 1876. But Cuban liberals actually went beyond the teachings of that chart.

In spite of the similarities between the Constitutions of La Yaya and Spain, there were points where Cuban liberalism surpassed the progressive nature of Iberian legislation. One of them was the article concerning freedom of religion. In the Spanish Constitution of 1876, article 11 ruled: “*la religión Católica, apostólica y romana es la del Estado ... Nadie sera molestado (...) por sus opiniones religiosas ni por el ejercicio de su respectivo culto, salvo el respeto debido a la moral cristiana. No se permitirán sin embargo otras ceremonias ni manifestaciones públicas que las de la religión del Estado.*” Article 6 of La Yaya, in turn, stated that: “*Cubanos y extranjeros serán amparados en sus opiniones religiosas y en el ejercicio de sus respectivos cultos, mientras estos no se opongan a la moral pública.*”¹¹⁵² In this instance, La Yaya did not declare any religion as official, but it supported instead various possible religious manifestations within the context of separation between the state and the church, a central tenet of liberalism. To be sure, it is possible to find a similarity between both articles in the common restriction around issues of “public and Christian morality.”

The rest of the Constitution of La Yaya referred to the organization of the Cuban republic. Similar to the Jimaguayú chart, Title III established a Council of Government (*Consejo de Gobierno*) formed by a President, a Vice-President and 4 Secretaries: War, Treasure, Foreign Relationships, and Internal Affairs. Title IV conceived an Assembly of

¹¹⁵² “The Catholic, Apostolic and Roman religion is that of the State. (...) No one will be bothered (...) by his or her religious opinions or by the exercise of their respective worship, except for the respect due to Christian morality. Other ceremonies or public manifestations different to those of the official religion, however, wont be allowed” and “Cubans and foreigners will be protected in their religious opinions and in the exercise of their respective cults, as long as they do not oppose public morals.”

Representatives to be elected after two years if the war had not finished yet; when the President, Vice-president, or two of the Secretaries were vacant; or, to sign the peace with Spain. With the exception of the Assembly, a body to be called under a narrow set of circumstances and whose functions were limited, this overall government structure basically replicated the one in Jimaguayú.

The members of the constituent assembly voted and approved the Constitution of La Yaya on October 30th, 1897. A new revolutionary government formed after the new constitution.¹¹⁵³ Among the members of the new government there were two trained lawyers: Vicepresident Domingo Méndez Capote and Secretary of War José Braulio Alemán, who actually had worked as a journalist before joining the government. La Yaya, hence, had the smaller number of lawyers of all revolutionary governments. Yet, these few lawyers preserved for the short lapse of existence of this government a stable republican system.¹¹⁵⁴

Other Liberal Alternative: the Autonomic Regime

Two months after the enactment of the constitution of La Yaya, another constitutional frame entered into effect in Cuba. In 1897, the Spanish government realized that the war with the Cubans was taking longer than expected while, simultaneously, the fight had spread across the island. At the same time, the genocidal policy of Captain General Weyler

¹¹⁵³ It was made up of President Bartolomé Masó Márquez, Vicepresident Domingo Mendez Capote, Secretary of War José Braulio Alemán, Secretary of Foreign Relationships Manuel R. Silva Zayas, Secretary of Internal Affairs Andrés Moreno de la Torre, and Secretary of Treasury Ernesto Fonts Sterling Mario Riera Hernández, *Cuba Libre 1895 – 1958: Resumen Histórico* (Colonial Press of Miami, 1968), 13.

¹¹⁵⁴ ANC Collection for the War of 1895 File 58 No. 72; File 60 No. 12, and File 63 No. 38. Those files contain records of the sessions of the government of Jimaguayú between September and October of 1897, including acts signed by Méndez Capote, Carlos Manuel de Céspedes and Aurelio Hevia.

to relocate 300,000 Cubans to concentration camps proved ineffective. It just contributed to increase the unpopularity of the Spanish regime over the island. The United States, additionally, had displayed propaganda questioning Spain and its management of the island, raising domestic and international anti-Spanish opinions.¹¹⁵⁵ Thus, in October of 1897, Spain decided to replace the repressive methods of Weyler by the conciliatory approach of Ramón Blanco. Among the revised policies that the new Captain General should implement in Cuba was the establishment of an autonomic regime.

Autonomism had been a demand of Cuban liberals throughout the nineteenth century. In the first half of the century, early liberals such as José Antonio Saco and Félix Varela had proposed an autonomic regime for the island. This idea survived among Cuban liberals in their aspirations of decentralization with respect to Madrid, becoming an alternative to independence after 1878. One of the main proponents of this model was the Liberal Party, which actually changed its name to Autonomic Liberal Party in 1880. In Spain, however, the conservative Prime Minister Cánovas del Castillo rejected the idea to recognize autonomy to overseas territories. This situation changed after his assassination on August 8th, 1897, which led the liberal Mateo Práxedes Sagasta to seize Spanish government. As part of his reforms, Sagasta appointed as his Secretary of *Ultramar* Segismundo Moret, a promoter of abolition and autonomism.¹¹⁵⁶ As part of their revised agenda, Moret and Sagasta granted the autonomy to Cuba and Puerto Rico in 1897.

¹¹⁵⁵ Louis Pérez, *Cuba and the United States: Ties of Singular Intimacy* (The University of Georgia Press, 2003), 84 – 85.

¹¹⁵⁶ Mario Riera Hernández, *Cuba Libre 1895 – 1958: Resumen Histórico* (Colonial Press of Miami, 1968), 16.

The arguments used by the Spanish government to support the autonomy reflect the liberal thinking of its proponents. In the exposition that Sagasta presented to the Regent Queen María Cristina on November 5th, 1897, he defended the liberal rights of the inhabitants of Cuba as citizens of the Spanish Empire. He argued as well that it was necessary to implement a political system where they had participation and constitutional freedoms. “So that if, by arbitrary provisions against which there is no recourse, by penalties imposed on the sides of the General Governors, or by omissions of procedural laws, the citizen can be intimidated, vexed and even deported to distant territories, and it is not possible for them to exercise, neither the right to speak, think and write, nor the freedom to teach or religious tolerance, neither could the right of assembly and association be practiced.”¹¹⁵⁷ Following Sagasta’s recommendation, the Regent Queen signed the same day the Royal Decree that established the autonomic system for the islands of Cuba and Puerto Rico.

Spain conceived for Cuba an autonomic government that preserved authoritarian elements while creating spaces of political participation for the inhabitants of the island. A General Governor and an Insular Parliament (*Parlamento Insular*) would integrate the government. The Governor would be the supreme authority within the island, and the representative of the Crown. The autonomic government had a President and five Secretaries: Justice, Treasure, Public Instruction, Public Works, and Agriculture-Industry-

¹¹⁵⁷ Exposición de Práxedes Mateo Sagasta to the Regent Queen on November 25th, 1897, *Decretos Estableciendo el Regimen Autonomico en Cuba y Puerto Rico* (Imprenta de la Viuda, Madrid, 1897), 6. “De suerte que si por disposiciones arbitrarias contra las cuales no cabe recurso, por penalidades impuestas en los bandos de los Gobernadores Generales, o por omisiones de leyes procesales, el ciudadano puede ser cohibido, vejado y hasta deportado a territorios lejanos, no le es posible ejercitar, ni el Derecho de hablar, pensar y escribir, ni la libertad de enseñanza, ni la tolerancia religiosa, ni cabe practicar el derecho de reunion y el de asociación.”

Commerce. The Insular Parliament would have two Chambers: the House of Representatives and the Council of Administration. The House would have one representative for every 25,000 inhabitants, and the Council would have 35 members, 18 elective and 17 appointed by the Monarchy. To be elected to the House, the candidate had to be an adult Spanish citizen, secular, born in Cuba or have resided on the island for four years, enjoy of all civil rights and be free from any criminal prosecution. The Council's candidates, similarly, had to be Spanish, 35 years old, born in Cuba or have resided on the island for four years, enjoy political rights and not have any pending criminal prosecution. In addition, the candidate to the Council should also have an annual income of \$4,000.00 pesos, a significant amount at that time, and could not have any property seized by judicial process. Also, there was a list of 15 conditions, one of which the members of the Council (*Consejeros*) had to have had. This list included being Dean of the *Colegio del Abogados* in Havana.¹¹⁵⁸ Social rank and economic status, therefore, determined participation of the autonomic government.

The social and economic standards required to participate in the Council did not really set equality but for a limited group. Although the Spanish government promoted political participation as part of its liberal discourse to justify autonomism, only a few Cubans could aspire to a seat in the Council of Administration, a structure clearly reserved to the top echelons of the local elite. Additionally, the Insular Parliament would focus on the application of Spanish laws to the island and would only legislate on local issues, especially

¹¹⁵⁸ Senador del Reino, Presidente of Fiscal de la Audiencia de la Habana, Rector de la Universidad de la Habana, Consejero de la Administración, Presidente de la Cámara de Comercio, Presidente de la Sociedad Económica de Amigos del País, Presidente del Círculo de Hacendados, Presidente de la Unión de Fabricantes de Tabaco, Presidente de la Liga de Comercio, Industriales y Agricultores de Cuba, Decano del Ilustre Colegio de Abogados de Habana, Alcalde de la Habana, Presidente de la Diputación Provincial, Decano de Cabildos de Catedral, and 50 largest territorial contributors.

the budget and taxes. The functions of the government, therefore, were also very limited and the Spanish needs would always prevail over domestic interests. Preserving state-control over those authorized to practice the law, the Parliament could enact legislation to regulate local courts, including the lawyers who would work in them.¹¹⁵⁹

While extensive and precise regarding the composition and functioning of the new Cuban government, the decree setting the new autonomic regime was silent in reference to individual rights. The omission could be explained by the regulation of the fundamental rights in the Spanish constitution of 1876, extensive to Cuba after 1878 in its condition as an overseas province. Yet, Sagasta's exposition to the Queen included the defense of freedoms, and their inclusion in the autonomic decree of 1897 would have ratified the existence of those rights in Cuba, especially when many limitations applied to those rights given Spanish efforts to suffocate political dissent on the island. To worsen the situation, the decree constantly referred to Cuba as a colony, and even referred to the constitutional act as the "colonial constitution." This consideration implied a regression in the political condition of Cuba from province to colony, even in contradiction with the Spanish Constitution of 1876.

Following the approval of the Autonomic Colonial Constitution, a new government became organized in Cuba. The leaders of the Liberal Party occupied the Secretaries and the Presidency of the House and the Council. Once again, lawyers became key players of the new Cuban political landscape, including well recognized members of the local legal

¹¹⁵⁹ Article 34 "Aun cuando las leyes relativas a la administración de justicia y de organización de los tribunales son de carácter general, y obligatorias, por tanto, para la colonia, el Parlamento colonial podrá con sujeción a ellas dictar las reglas o proponer al gobierno central las medidas que faciliten el ingreso, conservación y ascenso en los tribunales locales, de los naturales de la isla, o de los que en ella ejerzan la profesión de abogados."

community: José María Gálvez, head of the party, became the President of the Government; Lecturer of the *Círculo de Abogados* Antonio Govín, Secretary of Justice and Governance; Rafael Montoro, Secretary of Treasure; former Dean of the *Colegio de Abogados* José María Bruzón García, President of the Council of Administration; and Chair of Commercial Law José Antolín del Cueto, President of the House of Representatives.¹¹⁶⁰ Other lawyers were members of the Insular Parliament such as Ricardo Dolz, Antonio C. Betancourt Miranda, José María Espinosa, Luis Fernández Marcané, Carlos Fonts Sterling, Miguel F. Viondi, Manuel J. Manduley Tapia, and Manuel Yero Sagol.¹¹⁶¹ Among them, there was Ricardo Dolz who had initially joined the revolution and then gone into exile. He now returned from exile to integrate the new government, assuming this new regime was a victory of the liberal movement. Another interesting case was Carlos Fonts Sterling, who took a seat in the Insular Parliament while his brother Ernesto Fonts Sterling was the Secretary of Treasure of the revolution.¹¹⁶²

After the enactment of the aforementioned constitutions, two different governments existed in Cuba at the beginning of 1898: the autonomic regime authorized by Spain, and the Cuban Republic in Arms under the Constitution of La Yaya. Each of those constitutions followed a generally liberal approach; but they provided different alternatives. In the case of La Yaya, the constitution focused on issues such as independence and the mechanisms

¹¹⁶⁰ Mario Riera Hernández, *Cuba Libre 1895 – 1958: Resumen Histórico* (Colonial Press of Miami, 1968), 17 - 18.

¹¹⁶¹ *Ibid*, 18.

¹¹⁶² Affairs in Cuba, Report of the President of the United States on the Relations of the United States to Spain, and Report of the Committee on Foreign Relations of the United States Senate relative to Cuba (Government Printing Office, Washington, 1898), 519. In this page, the report mentions the existence of Cubans in different groups and refers to the members of this family as example.

to achieve it, as well as the defense of freedoms such as speech, religion and association, among others. Autonomism also had a liberal stance reflected in decentralization, a tenet of liberalism. To be sure, that regime had limited functions under the central power residing in Madrid. In terms of equality, La Yaya proposed a model with no social or economic distinctions, thus expanding political participation across Cuban society. Autonomism, on the other hand, provided a system where high economic and social status were requirements to access political participation, thus proving itself to be a moderate form of liberalism with some traces of authoritarianism. Evidence of this was the excessive powers of the Captain General, who, in addition, would be appointed by Spain. Independentist and autonomic governments spuriously coexisted when a major event took place in the development of Cuban history: the intervention of the United States in the war between Cuba and Spain.

Liberalism during the First American Intervention in Cuba

On February 15th, 1898 the battleship Maine exploded in the Bay of Havana. It was sent from the United States to protect the interests of American citizens living in Cuba from the unsafety derived from the war between revolutionary Cubans and Spain. The explosion took place suddenly, and the ship sank rapidly killing three quarters of its crew. The causes or authors of the explosion remain unclear, but this event provided the United States with a justification to declare the war to Spain. Thus began the so-called Spanish-American War.

The American intervention caused a crisis within the autonomist regime. Even before the explosion, some of its members had rejected the American presence and claimed for Cuban independence. This was the case of the lawyer Eliseo Giberga on February 13th,

1898.¹¹⁶³ Although internally divided, the autonomic government tried to survive the war, and its president José María Gálvez even sent a communication on April 2nd to President McKinley affirming that Cuba was in peace, and that the intervention was unnecessary.¹¹⁶⁴ At the same time, members of the Insular Parliament, the lawyers Giberga, Ricardo Dolz and Leopoldo de Sola tried to hold a meeting to reach an agreement with the revolutionary government, which independentist representatives did not attend.¹¹⁶⁵ In spite of the efforts of the autonomic regime, Cubans sided with the Americans and defeated the Spanish Army shortly after.

The war only lasted a few months and, after losing the naval battle of Santiago de Cuba on August 12th, 1898, Spain laid down its weapons four days later.¹¹⁶⁶ The Spanish cease of fire not only meant the end of the war with the Americans troops, but with the Cubans as well. The Constitution of La Yaya had stipulated that Cubans should form an assembly after the end of the war to create a transitional government and enact a new constitution.¹¹⁶⁷ In compliance with this regulation, the Cuban Republic in Arms dissolved the Council of Government and proceeded to elect the Assembly of Representatives. They seem to have been clearly unaware of the actual events taking place, and still looked at the American presence as bolstering independence. The new revolutionary body formed on October of

¹¹⁶³ Leopoldo Fornes-Bonavia Dolz, *Cuba cronología cinco siglos de historia, política y cultura* (Editorial Verbum, 2003), 104.

¹¹⁶⁴ Ibid.

¹¹⁶⁵ Ibid, 105.

¹¹⁶⁶ Louis Perez, *The War of 1898: the United States and Cuba in History and Historiography*, University of North Carolina Press, 2000.

¹¹⁶⁷ La Yaya, Artículo 38. “*La Asamblea de Representantes deberá reunirse a los dos años de promulgada esta ley y tundra facultades para hacer una nueva constitution o modificar esta, censurar la gestión del gobierno y proveer todas las necesidades de la República.*”

1898 in the town of Santa Cruz del Sur, in Puerto Príncipe, and had 44 members selected from every division of the Cuban Army. Among its members, there were 14 legal professionals including former judge Freyre de Andrade, attorney Méndez Capote, and scholar González Lanuza.¹¹⁶⁸

Initially, the Assembly elected Calixto García, its older member, as Interim President with medical doctors Enrique Nuñez and José Nicolás Ferrer as his assistants. Upon internal elections, the Board of the Assembly came to be as follows: President Domingo Méndez Capote, Vice-presidents Fernando Freyre de Andrade and Hugo Roberts, and Secretaries Manuel María Coronado and Porfirio Valiente. Three lawyers -- Méndez, Freyre de Andrade and Coronado -- and two medical doctors (Roberts and Valiente) formed this board. Coronado was born in Cuba in early 1860s, and graduated at the University of Havana during in mid-1880s. Freyre and Méndez belonged to the same generational group and seem to have been members of the same professional network, which resembled what had happened with the lawyers that mobilized in 1852 and 1868.¹¹⁶⁹

The operations of the Assembly in central Cuba, however, conspired against its public recognition and legitimacy. Remaining in the countryside and far from the capital, the Assembly's presence in Cuban politics was limited, while in Havana the Spaniards and Americans decided on the fate of the island. The Cuban government eventually moved to

¹¹⁶⁸ Mario Riera Hernández, *Cuba Libre 1895 – 1958: Resumen Histórico* (Colonial Press of Miami, 1968), 18. The lawyers in the Assembly were: Rafael Portuondo, Armando de la Riva, Manuel Sanguily, Domingo Mendez Capote, Juan Manuel Menocal, Fernando Freyre de Andrade, Aurelio Hevia, Manuel María Coronado, Joaquín García Pola, José Ignacio Almagro, Carlos Manuel de Céspedes Quesada, Gerardo Portela, Gonzalo Perez André, and José Antonio González Lanuza.

¹¹⁶⁹ ANC Register of the *Colegio de Abogados* in Havana, 1879 – 1900. Coronado was born in 1860, and graduated in 1884; Méndez was born in 1863, and graduated in 1887; and Freyre de Andrade was born in 1863, and graduated in 1885.

Marianao, a small town close to Havana, in November of 1898. Yet, whether in Havana or Marianao, many critical issues remained pending, such as the situation of the Cuban Army and the expected reconstruction of the country after the war. For that reason, in December of 1898, the former President of the Assembly, General Calixto García, was sent to Washington along with a commission to negotiate the peace and the conditions to demobilize the Cuban Army on behalf of the Cuban Republic. The other members of the commission were two lawyers, Manuel Sanguily and José Antonio González Lanuza, along with the military José Miguel Gómez and the engineer José Ramón Villalón. In spite of the efforts of the commission, President McKinley did not take seriously the Cubans' proposals and offered only \$3,000,000.00 for the demobilization.¹¹⁷⁰ In the meantime, the American government was actually negotiating a peace settlement with Spain, which finally the parties signed in Paris on December 8th, 1898.

The signature of the Treaty of Paris meant the end of the Spanish domination and the war in Cuba. As it turned out it also meant the beginning of the American occupation. The Treaty included regulations for both *naturales* and foreigners that now resided in Cuba. As per this agreement, the Spaniards established on the island could remain in Cuba and preserve their Spanish nationality by their inscription in a Register within the year following the transition. *Naturales* from Spain who decided to stay in Cuba would preserve their property rights, along with the possibility to practice their professions and pursue their commerce and industries. If the *naturales* from Spain, however, did not register within the following year, they would lose their Spanish citizenship and would become citizens of the

¹¹⁷⁰ Louis Pérez, *Cuba between Empires*, 256. In this piece, Pérez explains how the Cuban revolutionary government constituted an Assembly and went to Washington looking support to appease the island and transition to a republic.

new country of residence.¹¹⁷¹ Hence, residents of the island, even those of Spanish origin, were protected in their businesses and professions at the moment of the American occupation. This included lawyers, of course. For that reason, the Spanish lawyers who decided to remain in Cuba were able to continue practicing under the new political conditions.

Shortly after the signature of the peace, the American government enacted legislation to protect its economic interests in Cuba. On December 13th, 1898, President McKinley reduced the taxes of American merchants to export their products to the island. Few days later, on December 28th, 1898, McKinley authorized the circulation of the American dollar as currency on the island.¹¹⁷² In both cases, the reforms took for granted the island's dependence from and ties with the American economy.

On January 1st, 1899, the first American Governor, John R. Brooke, arrived to Cuba. As Brooke repeatedly mentioned, he did not bring clear policy directives from Washington. The purpose of the intervention, however, seemed to have been the preparation of the island for its eventual annexation to the United States.¹¹⁷³ Therefore, the interventionist government started issuing Military and Executive Orders or Decrees for the island. American Military Orders included regulations regarding every aspect of Cuban

¹¹⁷¹ Tratado de París. “*Los súbditos españoles naturales de la Península, residentes en el territorio cuya soberanía España renuncia o cede por el presente tratado, podrán permanecer en dicho territorio o marcharse de él, conservando en uno u otro caso, todos sus derechos de propiedad, con inclusión del derecho de vender o disponer de tal propiedad o de sus productos; y además tendrán derecho de ejercer su industria, comercio o profesión, sujetándose a este respecto a las leyes que sean aplicables a los demás extranjeros. En el caso de que permanezcan en el territorio, podrán conservar su nacionalidad española haciendo ante una oficina de registro, dentro de un año después del cambio de ratificaciones de este tratado, una declaración de su propósito de conservar dicha nacionalidad; a falta de esta declaración se considerará que han renunciado a dicha nacionalidad y adoptado la del territorio en el cual puedan residir.*”

¹¹⁷² Cantón Navarro, 11.

¹¹⁷³ Louis Pérez, *Cuba between Empires: 1878 – 1902*, (University of Pittsburgh Press, 1983), 270.

life such as its political and legal organization, public health and educational systems, among others. Becoming harsh critics of the situation of the island, Americans sided with liberals who claimed for reforms, while antagonizing *pro-peninsulares* and conservatives who still supported Spain. Some former *unionistas*, on the other hand, changed lines and opportunistically embraced liberal ideas. The American presence, thus, caused the realignment of Cuban political forces depending on their support for the American intervention. In particular, it brought into the liberal group individuals who had traditionally opposed the transformations inherent to that ideology.

A number of liberal lawyers, representative of a significant segment of the population, rejected the American presence and turned their moderate positions into claims for independence. Evelio Rodríguez Lendián, for example, was lawyer and Chair of Philosophy at the School of Arts in the University of Havana. He was in charge of delivering the inaugural address for the academic year 1899 – 1900.¹¹⁷⁴ In his speech, Rodríguez Lendián called for independence as the only solution to the problems of Cuba, and considered it the ultimate aspiration of the inhabitants of the island. Another creole liberal, the abolitionist Luis Azcárate Fesser, was Major of Havana during the Spanish-American War and endured the American naval embargo to the city.¹¹⁷⁵ During the American occupation, Azcárate left his previous job, and was appointed Substitute Justice

¹¹⁷⁴ Evelio Rodríguez Lendián, *La independencia absoluta como el ideal cubano*, Speech delivered at the inauguration of the academic year 1899 – 1900. See *Revista de la Facultad de Ciencias y Letras*, Vol. 36 (University of Havana, 1926), 169.

¹¹⁷⁵ Francisco Xavier de Santa Cruz Mallén, *Historia de las Familias Cubanas*, Vol. 2 (Editorial Hercules, 1940), 76.

of the Audiencia of Havana in 1900. He resigned his new position shortly thereafter, and retired from public life for the rest of the intervention.¹¹⁷⁶

Spaniards, on the other hand, split themselves over the annexation. A local elite of *peninsulares* had amassed the largest amount of properties, being the island's most important businessmen and merchants. Facing the rapid protection of Washington over American's investments, some of them became advocates for the annexation and supported the presence of the northern neighbor in Cuba, while trying to protect their own interests.¹¹⁷⁷ At the same time, Spaniards continued migrating from Iberia to Cuba still looking at the island as a place for economic opportunities. The legal profession illustrates this behavior when, between 1899 and 1900, the *Colegio de Abogados* in Havana received 132 new lawyers including 11 *peninsulares* and 4 from other countries.¹¹⁷⁸ These numbers contrasted with just 9 incorporations in 1898, when only 1 new member was a *natural* from Spain and no one came from other countries, which also showed that lawyers thrived in times of peace while remaining scarce and unavailable during periods of war.

In contrast to those Spaniards who either remained or moved to Cuba during the occupation, another significant group of *peninsulares* did not desire to live out of Spanish jurisdiction. In the legal and related fields, functionaries who had worked within the Spanish administration for decades preferred to maintain their ties with Madrid and chose

¹¹⁷⁶ For the appointment see Military Order 483 dated December 1st, 1900, Annual Report of the Secretary of the War, United States War Department, (United States Government Printing Office, 1901), 644; and for the resignation see Civil Order and Circulars, Department of Cuba (Printing of the United States Army, 1901), 427.

¹¹⁷⁷ Louis Pérez, *Cuba between Empires: 1878 – 1902*, (University of Pittsburgh Press, 1983), 270; citing Franklin Matthews, *The Reconstruction of Cuba*, Harper's Weekly XLIII (July 15, 1899), 700 – 01.

¹¹⁷⁸ ANC Register of the *Colegio de Abogados* in Havana, 1879 – 1900. The other countries were United States, Puerto Rico, France and Venezuela.

not to stay in Cuba. The resignations of those bureaucrats mostly relied on two reasons: pledge of loyalty to Spain, and their right to a pension after years working as members of the Spanish bureaucratic system. Thus, and considering that a significant number of lawyers held public offices across the island, various members of the Spanish administration resigned their positions on the island and sailed for the former metropolis. This was the case, for example, of Francisco Fernández de Landa Rodríguez, a *natural* lawyer from Seville who was Register of the Property of Güines since 1884.¹¹⁷⁹ On August 11, 1900, Fernández de Landa resigned this position arguing that he wanted to preserve his Spanish nationality and to remain within the territory of his country.¹¹⁸⁰ Fernández de Landa left Cuba for Spain on August 24th, 1900.

Similar restrictions applied to those functionaries who were *naturales* from Cuba. After the signature of the Treaty, they had to move to the Iberian Peninsula to acquire the Spanish citizenship. José Almagro de la Vega, for instance, was born in Matanzas and served in the courts of Cuba, Puerto Rico and Manila until his retirement in 1895. After the signature of the peace, however, Almagro did not receive the Spanish citizenship, in spite of decades of service to the Crown. On the contrary, his pension was suspended in 1901 when he claimed his Spanish citizenship for residing in Cuba. This situation forced Almagro to sue the Spanish administration in a process that reached the Supreme Court in Madrid by 1904.¹¹⁸¹

¹¹⁷⁹ *Calendario Manual y Guía de Forasteros de Madrid*, (Impr. Real, Madrid, 1891), 783.

¹¹⁸⁰ AHN ULTRAMAR 424 Exp. 839, Professional file of Francisco Fernández de Landa Rodríguez, Register of the Property in Güines.

¹¹⁸¹ Judgment 65, Supreme Court of Spain, Administrative Contentious Chamber, December 10th, 1904 available in Complete Collection of Judgments of the Supreme Court of Spain, Vol. 68 (Editorial Reus, 1906), 269 – 273.

While the colonial system got dismantled, the revolutionary Assembly of Representatives of Santa Cruz tried to survive, despite the American presence. After a short period in Marianao, its members ultimately, settled in El Cerro, another locality near the capital.¹¹⁸² In addition, its delegates remained divided by their multiple opinions, which only aggravated after some members voted for the removal of the General in Chief of the Cuban Army, Máximo Gómez, in March of 1899. This decision cost the Assembly the loss of popular support. After various unsuccessful attempts to receive recognition from the American government, the body finally dissolved on April 4th, 1899. Along with this Assembly, the American government suppressed other forms of local authority such as the Cuban Army, while enabling new mechanisms of control such as the Guardia Rural, or rural police force.¹¹⁸³ While the remnants of local institutions disappeared, the Americans created their own system of government.

The United States established a central government in Cuba led by an American military chief and a cabinet of local politicians and military leaders. They preserved the Spanish system of provinces and appointed a local leader as governor of each territory.¹¹⁸⁴ American Governor John Brooke constituted the first cabinet in January of 1899. It comprised members from different political parties, including local lawyers. Domingo Méndez Capote, for example, abandoned the Assembly of Representatives of Santa Cruz

¹¹⁸² *Asamblea del Cerro* was the last denomination of the government formed by the Cuban rebels who were fighting for independence. In 1898, the *mambises* had formed a legislative assembly established in Santa Cruz del Sur, a town in the province of Camagüey. Late that year, the same Assembly moved to Havana, residing in the municipality of Cerro until its final dissolution in 1899 by the American Intervention. See Cantón Navarro, José and others, *La Neocolonia: Organización y crisis desde 1899 hasta 1840*. (Editora Política, La Habana, 1998),

¹¹⁸³ Military Order 90/1900. Civil Report Vol. 6., Report of Captain H.J. Slocum.

¹¹⁸⁴ Louis A. Pérez, *Cuba Between Empires*, 290.

to become the Secretary of State and Government, while Federico Mora Valdés, creole lawyer who studied in Madrid and used to be interim fiscal of the Audiencia in Havana, was appointed Governor in Havana.¹¹⁸⁵

Other members of the interventionist cabinet were also lawyers: the former separatists Pablo Desvernine Galdós as Secretary of Finance, and José Antonio González Lanuza as Secretary of Justice and Public Instruction.¹¹⁸⁶ Necessarily, the Chief Justice of the Supreme Court was also a lawyer, Antonio González de Mendoza. Additionally, lawyers continued directing the main learning institutions in the capital: Leopoldo Berriel was reinstated as President of the University of Havana and Manuel Sanguily was appointed Director of the Institute of *Segunda Enseñanza*.¹¹⁸⁷ All of them were liberals, either radical or moderate, and their presence symbolized that now mostly reformist creoles integrated the interventionist government.¹¹⁸⁸

Lawyers not only occupied higher positions within the interventionist government; they also took other seats in the public sector. After functionaries of the Spanish administration started leaving for Spain, many positions were left vacant in the Cuban bureaucracy. As Louis Perez explains, exiled Cubans who had lived in the United States, and that now were returning to the island, filled many of these vacancies.¹¹⁸⁹ Similarly, in

¹¹⁸⁵ ANC Register of the Colegio de Abogados, 1879 – 1900; and AHN FC-M_JUSTICIA_MAG_JUECES 4757, Exp. 7628 Personal file of Federico Mora as interim fiscal of the Audiencia of Havana.

¹¹⁸⁶ Military Order signed on January 12, 1899 at *Civil Report of Major General John R. Brooke* (US Government Printing Office, 1900), 168.

¹¹⁸⁷ *Catálogo General de la Universidad de la Habana y Memoria, correspondiente al curso académico 1903 – 1904*, (M. Ruiz y Compañía, Imprenta y Papelera Obispo 18 y 20, Habana, 1907), 213.

¹¹⁸⁸ Louis Perez, *Cuba Between Empires*, 290.

¹¹⁸⁹ *Ibid.*

the private sphere, local lawyers became legal advisors of the American companies on the island. Louis Perez mentions some of them: Rafael Calzadilla dedicated himself to the translation of legal documents, and Pablo Desvernine represented the New York law firm Coudert Brothers. Several more, including Rafael Govín, Guillermo Domínguez Roldán, Fernando Sánchez de Fuentes, Cosme de la Torriente, Antonio González Lanuza, Rafael Manduley, Gonzalo de Quesada, Nicasio Estrada Mora, and Antonio Sánchez de Bustamante, among many others, represented American corporations on the island.¹¹⁹⁰

In spite of the gradual incorporation of returning exiles and liberals to the Cuban bureaucracy, the interventionist regime preserved members of the former Spanish administration too. By Military Order dated February 1st, 1899, Governor John Brook confirmed those civil functionaries that were holding public positions at municipal and provincial levels.¹¹⁹¹ Consequently, many officials who wanted to preserve their positions were not forced to abandon Cuba. This regulation paved the way for a peaceful and organized transition, while creating the conditions for a continuance from the Spanish to the American era in Cuba. Yet, the new administration put in practice multiple transformations that had great impact on Cuban society.

Cuban colonial courts had been severely criticized in the past for their corruption, and contemporary reports affirmed the necessity of reforms. In a report issued in 1899, Brigadier General Wilson, for example, described the Cuban judicial system as poor and inefficient. He stated that: “investigations of cases show that in many instances judges and

¹¹⁹⁰ Louis Pérez, *On Becoming Cuban: Identity, Nationality and Culture* (University of North Carolina Press, 1999), 137 - 138.

¹¹⁹¹ Military Order signed on February 1st, 1899 at *Civil Report of Major General John R. Brooke* (US Government Printing Office, 1900), 168.

magistrates appointed under the Spanish administration of the island have not possessed judicial character. (...) Unless men of rigid and incorruptible honesty can be found to fill their places, judicial reconstruction in the country will make but slow process.”¹¹⁹² Consequently, the interventionist government started implementing reforms involving the judicial sector.¹¹⁹³ Military Order 41 of 1900, for instance, ordered the creation of the Supreme Court of Justice of Cuba, and subsequent legislation established specialized tribunals such as the Correctional Courts, launched by Military Order 213, of 1900.¹¹⁹⁴ This same order also allowed the parties the possibility to request trial by jury, although no party ever seems to have requested it.¹¹⁹⁵ Military Order 427 of 1900 introduced the right of *Habeas Corpus*, a pending issue in Cuban legislation that established protection of any person from an unjustifiably protracted arrest during prosecution.¹¹⁹⁶ Those legal reforms renewed the Cuban judicial system, and even prepared the country for a republic with an independent judicial system. In the field of Family Law, Americans authorized civil marriage, in contrast to the Spanish Catholic tradition involving a mandatory religious ceremony.¹¹⁹⁷

¹¹⁹² Annual Report of Brigadier General James H. Wilson U.S.V. commanding the Department of Santa Clara, Matanzas, Cuba, August 1st to September 7th of 1899, 17.

¹¹⁹³ Leonard Wood, *The Military Government of Cuba*, *Annals of the American Academy of Political and Social Science*. Vol. 21. Current Political Problems (Mar, 1903), 1 – 30.

¹¹⁹⁴ Military Order 152 dated April 10, 1900. United States Congressional Serial Set, Issue 4080, (USA Department of War, Washington DC, 1901), 323.

¹¹⁹⁵ Leonard Wood, *The Military Government of Cuba*, *Annals of the American Academy of Political and Social Science*, Vol. 21, Current Political Problems (Mar., 1903), pp. 1-30, 8.

¹¹⁹⁶ *Ibid*, 28.

¹¹⁹⁷ *Ibid*, 27. Cuban weddings, however, continued being formalized by the Catholic Church and the American option lacked applicability neither did it have approval across most of the Cuban population.

Along with the modernization of the court system, Americans modified Cuban education, including legal training. Reports of the *Rectorado* of the University of Havana and the Capitan General of Cuba in 1891 showed that the School of Law faced several challenges.¹¹⁹⁸ Among other problems, the reports mentioned that many students preferred to study abroad to avoid the academic instability and political unrest that had characterized the island since the 1860s, because of the protracted wars for independence. The report also stated that the University of Havana was in serious economic deficit after the colonial government reduced the budget for education during the war. Official control required that a Censorship Commission authorize any reading material, interfering with the updating of available books and publications. Faculty members, such as the moderated liberal Antolín del Cueto, complained about the outdated bibliography and the limited access to contemporary materials on legal doctrine during the early 1890s.¹¹⁹⁹ Many professors were elderly while many tenure positions, including nine Chairs of the School of Law, were vacant and taught by temporary professors (*supernumeraries*). The situation of the University of Havana, then, was described as pitiful. Therefore, there was a general understanding that legal training was in need of renovation.

In 1900, Military Governor Leonard Wood appointed positivist intellectual Enrique José Varona as Secretary of Education. Varona continued the work of González Lanuza in

¹¹⁹⁸ AHN ULTRAMAR 259, Exp. 12. Status of the faculty of the University of Havana. Report dated December 5th, 1891 sent to the Ministerio de Ultramar by the President of the University of Havana about the current status of the University. See also a Report dated January 9th, 1891 sent to the Ministerio de Ultramar by the President of the University of Havana about the current status of the University.

¹¹⁹⁹ Del Cueto, 10.

the modernization of the Cuban school system.¹²⁰⁰ González Lanuza had introduced a bill to reform the plan of studies of the School of Law, which seem to have had limited effect since Varona rapidly included a new one in his proposal. Therefore, under Varona, Military Order 266 of 1900 divided the studies into three Programs: Civil Law, Public Law, and Notary, and established a new plan of study.¹²⁰¹ Along with the reform, the Chairs reorganized with the elimination of the less practical courses such as Canon Law, Natural Law, History of Spanish Law, and Philosophy of Law. The permanence of other courses, like Roman Law, was put into question and Professors Juan Bautista Hernández Barreiro and Octavio Averhoff had to argue on the necessity to teach what they called “the universal language of the Civil Law countries.”¹²⁰² In consequence, Roman Law remained in the curriculum and it was incorporated into the new program. Its contents, nevertheless, were reduced from two annual courses to one, until the 1920s.¹²⁰³ These courses embodied old values and the Spanish legal tradition, while most of the rest of surviving courses had a pragmatic and utilitarian approach, including Civil Law, Criminal Law, Legal Procedure, Commercial Law, and Writing of Legal Documents. Since the Spanish Codes primarily were the foundation of the Cuban legal system at the time, Spanish legislation continued to be taught in the Cuban University within each of these courses.

¹²⁰⁰ Congressional Serial Set, Annual Reports of the War Department, Volume I, (US Government Printing Office, Washington DC, 1903), 9.

¹²⁰¹ Catalog of the Public Documents of the Congress and of all Departments of the Government of the United States. V.6. (United States Government Printing Office, Washington DC, 1905), 269.

¹²⁰² AHUH. Expediente 4196, foja 1. Letter to the President of the University.

¹²⁰³ Catálogo General de la Universidad de la Habana y Memoria, correspondiente al curso académico 1903 – 1904, (M. Ruiz y Compañía, Imprenta y Papelera Obispo 18 y 20, Habana, 1907), 213.

Interventionist legislation also regulated the faculty of the University of Havana. Military Order 423 of 1900 retired eight professors considered too old to continue teaching. At the beginning of the intervention, the University of Havana was temporarily closed and its faculty and students suspended. The *Rector*, Leopoldo Berriel, was temporarily removed from his position. Initially, faculty members rejected this reform, and seemed opposed to the American imposition. Del Cueto remembered: “The Decree of 1900, there is no reason to hide it, hurt the public feelings in our University.”¹²⁰⁴ Yet, the University adopted the new academic model and continued in operation during the intervention. It ultimately adopted the Plan Varona.¹²⁰⁵

As Varona introduced transformations in the educational field through recommendations to the Military Government, other secretaries also used their input to implement reforms. For that reason, many military orders included the expression “upon the recommendation of the Secretary,” which also appeared in those related to the Secretary of Justice. Thus, although representatives of the American government signed the military orders that transformed the Cuban legal system, the ideas contained in such orders usually became regulations through the recommendation and work of the Cuban Secretaries of Justice during the intervention.

Between 1899 and 1901, there were four Secretaries of Justice. The first was José Antonio González Lanuza from January to December of 1899, until the Secretary of Public

¹²⁰⁴ Del Cueto, José Antolín, *Elogio del Dr. Berriel*, Revista de la Facultad de Letras y Ciencias, V. 23, Habana, Cuba, 1916, 9.

¹²⁰⁵ Berriel, Del Cueto, and the rest of the faculty members complied with the legislation and continued working in the University under the reform.

Instruction split with Justice. Lanuza remained as the head of the former.¹²⁰⁶ Hence, on January 1st, 1900, the new American Governor Leonard Wood appointed Dr. Luis Estevez Romero as Secretary of Justice. Originally from Matanzas, Estevez was born to a family of limited resources.¹²⁰⁷ During the 1860s, however, he was able to afford the School of Law of the University of Havana, and upon graduating began a successful career.¹²⁰⁸ At first, he was even rejected by the family of his future wife, Marta Abreu, which accused him of insolvent. After 1880, however, Estevez accumulated considerable wealth working as a lawyer, making personal investments that also had a social impact, such as the installation of two railroads to connect his sugar-mill with the towns in the area of Cruces.¹²⁰⁹ During the war of 1895, Estevez abandoned Cuba for Paris. Upon returning in 1899, he reconnected with his former colleagues in Havana and Santa Clara, becoming a candidate for the position of Secretary of Justice. Estevez, however, did not last but a few weeks in this position as he resigned on May 1st, 1899.¹²¹⁰ Former Dean of the *Colegio de Abogados* and Chair of Roman Law, moderate liberal Juan Bautista Hernández Barreiro, temporarily covered the vacant left by Estevez until August 11th, 1900, when he requested

¹²⁰⁶ Military Order signed on January 12, 1899 at *Civil Report of Major General John R. Brooke* (US Government Printing Office, 1900), 168.

¹²⁰⁷ M. García Garófalo Mesa, *Marta Abreu Arencibia y Dr. Luis Estevez Romero, Estudio Biográfico*, Habana, Imprenta Librería, La Moderna Poesía, 1925.

¹²⁰⁸ AHN ULTRAMAR 94, Exp. 9. Academic file of Luis Estevez Romero containing his request for simultaneity of studies of 4th and 5th years of the School of Law at the University of Havana.

¹²⁰⁹ AHN ULTRAMAR 201, Exp. 25. File initiated by the Luis Estevez requesting two railroads in Santa Clara, which were granted, in 1891 – 92.

¹²¹⁰ Annual Report of the Secretary of War, Civil Orders and Circulars, Military Order No. 1 dated January 1st, 1900 (United States Government Printing Office, 1901), 262.

to be released from this position because of health issues.¹²¹¹ As Hernández's replacement, Wood appointed Miguel Gener Rincón.¹²¹²

Miguel Gener was born in Havana in 1847, and had graduated in law at the University of Havana in 1869.¹²¹³ Upon graduation, Gener tried to initiate an academic career, being *supernumerario* of the School of Law. He gained a Chair of Geography and History at the School of Philosophy and Arts by the end of the 1870s.¹²¹⁴ At the same time, Gener was an active member of the community of lawyers and, upon the reopening of the *Colegio de Abogados* in Havana, held positions in its Board between 1886 and 1897.¹²¹⁵ When Hernández Barreiro ended his triennium as Dean, Gener was elected his successor in 1898.¹²¹⁶ Gener, however, did not complete his three-year-term but was replaced by Domingo Méndez Capote in 1899. The following year, Gener assumed the position of Secretary of Justice.

His radical liberalism and reformist spirit characterized the tenure of Gener as Secretary of Justice. Gener supported foreign investment to promote local industry and commerce, reason why he recommended military orders that eased European and

¹²¹¹ Annual Report of the Secretary of War, Civil Orders and Circulars, Military Order No. 183 dated May 1st, 1900 (United States Government Printing Office, 1901), 354.

¹²¹² Elihu Root, *Collection of United States Documents: Military Orders during the Military Intervention in Cuba*, Military Order 317 dated August 11th, 1900, Ser. A-F, (Government Printing Office, War Department of the United States of America, 1901), 533.

¹²¹³ ANC Register of the Colegio de Abogados in Havana, 1879 – 1800.

¹²¹⁴ *Guía de Forasteros*, 1870 and 1879.

¹²¹⁵ BNC *Lista de los Abogados del Ilustre Colegio de la Habana* (Imprenta La Australia, Havana, 1897), 5.

¹²¹⁶ Estatutos del Colegio de Abogados, Habana, 1901.

American investors' operations in Cuba.¹²¹⁷ At the same time, Gener aimed to eradicate the remnants of Spanish colonialism in Cuba in the legal field. In his words: "Law governs and controls social life; and, if this is true, it could not be understood that after [we] broke the long-standing political molds into which the Cuban society was cast, our legal institutions should remain permanently and untouchably intact."¹²¹⁸ Gener also argued: "One of the causes that delayed social progress in Spanish American countries during the first years of their independence was the fact that nearly all the legal organisms of colonial times were upheld or continued (...), placing a native bureaucracy where there had been a Spanish one."¹²¹⁹ Hence, Gener expected radical changes, and deeper transformations than those being implemented.

Gener's radical ideas explain one of the reforms he pursued under his tenure as Secretary – namely, reducing the public influence of the *Colegio de Abogados*. In 1819, Ferdinand VII had conceived the *Colegios* as a mechanism to limit and control the number of individuals authorized to practice the law. Local elites from Havana had also requested the creation of a *Colegio* in 1812 as a mean to prevent the unauthorized practice and the increase of the number of lawyers in the capital. Through the nineteenth century, even under the Spanish liberal regime, the *Colegios* remained as a mechanism to control and regulate the legal profession and embodied the ideal of restricting the practice of the law

¹²¹⁷ Elihu Root, *Collection of United States Documents: Military Orders during the Military Intervention in Cuba*, Military Order 400 dated September 28th, 1900, Ser. A-F, (Government Printing Office, War Department of the United States of America, 1901), 603.

¹²¹⁸ United States Congressional Serial set 4082, Report from the Secretary of Justice to the Military Government from July 1st, 1899 to June 30th, 1900 dated October 31st, 1900 (Government Printing Office, War Department of the United States of America, 1901), 328.

¹²¹⁹ *Ibid*, 330.

to a few, an inheritance from colonial times. On December 10th, 1900, Leonard Wood, as per recommendation of Gener, issued Military Order 500 about the *Colegio de Abogados*. At the beginning of the Military Order, Wood stated: “In order to remove all unnecessary burdens for the lawyers of this island, the military governor, upon the recommendation of the secretary of justice (...) terminates the official relations between the government and the various “Colegios de Abogados” of Cuba.”¹²²⁰ The order contained various points that overall modified the requirements to practice as lawyer, liberalizing the profession. “Registration in any lawyer’s association shall not be necessary to exercise the profession before any court of law, the others requirements exacted by law being sufficient.”¹²²¹ The order continued: “All lawyers’ associations throughout the island are hereby declared to be without official status.”¹²²² Later, the order added: “All rights and attributes vested in the lawyers’ associations as official corporations up until now, shall in the future be assumed by the courts of law within their respective jurisdictions, but in accordance with the provisions of this order.”¹²²³

Military Order 500 has been interpreted as a mechanism to reduce the social participation of lawyers in opposition and political contestation.¹²²⁴ Lawyers had collaborated with the American government as a professional group, and had been

¹²²⁰ Elihu Root, *Collection of United States Documents: Military Orders during the Military Intervention in Cuba*, Ser. A-F, Military Order 500 dated December 10th, 1900 (Government Printing Office, War Department of the United States of America, 1901), 652.

¹²²¹ Ibid.

¹²²² Ibid.

¹²²³ Ibid.

¹²²⁴ Ramiro Guerra Sanchez, *Historia de la Nación Cubana*, Vol. 7 (Editorial Historia de la Nación Cubana, 1952), 56.

instrumental in the implementation of reforms in many fields since 1899. Even the Deans of the Colegio de Abogados Hernández Barreiro, Gener Rincón and Méndez Capote, had occupied important positions within the interventionist administration. Thus, the idea of an anti-lawyer offensive does not have much support. The military decree rather intended to modify the Spanish system that had controlled and regulated the legal profession, returning to the judiciary a control that for the last two decades had held the *Colegios*.

Based on its reformist spirit, Military Order 500 modified the Spanish Law of Judicial Procedure of 1870 concerning the requirements to practice law, and eliminated the mandatory inscription in a *Colegio de Abogados*.¹²²⁵ Yet, the Military Order preserved the other requirements to practice under the article 873 of the Spanish Organic Law of the Judicial System of 1870, including to be twenty-one years old, Licenciado in Civil Law, and not having been criminally prosecuted or subject to afflictive punishments.¹²²⁶ The Military Order only required the inscription of the lawyers in the Supreme Court without attention to any other intermediate legal institution. Rather than limiting the profession of lawyers, the elimination of the *Colegio* as a requirement to practice allowed more lawyers to incorporate themselves into the profession now that they did not have to pay the contributions attached to membership in a *Colegio*.

Upon enforcement of Military Order 500, the *Colegio de Abogados* in Havana issued revised statutes aligned with its new status as a private entity. The General

¹²²⁵ Elihu Root, *Collection of United States Documents: Military Orders during the Military Intervention in Cuba*, Ser. A-F, (Government Printing Office, War Department of the United States of America, 1901), 652.

¹²²⁶ Ley Orgánica del Poder Judicial de 15 de Septiembre de 1870 y Ley adicional a la misma de 14 de Octubre de 1882: ampliadas con notas, referencias y resoluciones aclaratorias, reformas, supresiones y disposiciones publicadas hasta la fecha sobre organización y régimen de los tribunales y seguidas del Código de justicia militar, (Imprenta de El Consultor, Madrid, 1902), 211.

Dispositions of the new statutes asserted that it was a continuance of the same *Colegio* that had existed in the city, but now as a private institution.¹²²⁷ The new statutes also introduced other reforms. In 1880, lawyers should be *avencidados* in the capital, have *estudio abierto*, and be able to pay the contributions. The 1901 statutes, however, only required to have a diploma of lawyer from a University, either Cuban or foreign.¹²²⁸ Thus, the new *Colegio* abandoned the previous control over its members' place of residence, a function that the courts as overseers of the professional activity of lawyers would now assume. In addition, the *Colegio* still required costs of membership, but they were not anymore a condition to practice as a lawyer. The 1901 statutes, on the other hand, preserved the *Colegio*'s role to control that its members would act with honesty and decorum, compelling them to behave according to the honor and the laws to avoid sanctions that included expulsion from the corporation.¹²²⁹

Not longer required to belong to a *Colegio* in order to practice law, for obvious reasons the number of *colegiados* declined drastically. From more than 200 members at the beginning of the American occupation, in Havana the number of *colegiados* dropped to 110 by 1901.¹²³⁰ As a result, the *Colegio* became an exclusive space, a sort of professional club, where only those lawyers who wanted to pay for the honor of the

¹²²⁷ *Estatutos del Colegio de Abogados*, Habana, 1901. "This Association (...) is a continuance of the institution that had existed with the same name in this city, although it currently lacks of official status after the Order of this Military Government on December 10th, 1900, continuing since then its existence as a mere private association."

¹²²⁸ *Ibid.* Habana, 1901. Article 5: "Para pertenecer al Colegio sera indispensable poseer el título de abogados expedido por cualquier universidad de Cuba o el extranjero."

¹²²⁹ *Ibid.* Article 17: "Si después de admitido un individuo en el Colegio cometiese faltas que le hicieren desmerecer de su honrosa profesión, la Junta de Gobierno podrá amonestarle o darle de baja como collegial."

¹²³⁰ *Estatutos del Colegio de Abogados*, 1897 and 1901. List of lawyers – members.

colegiatura would be members. It thus survived as a private institution with an elitist and reduced membership. Yet, most of its members were prominent lawyers with influence on different sectors of Cuban society.

The Board of the *Colegio* in 1901 mostly comprised members of the local elite. The Dean who followed Méndez Capote in 1900, Leopoldo de Sola Iradi, was a *cienfueguero* who graduated in Madrid in 1871, and established a private practice in Havana that represented foreign and domestic corporations dedicated to international trade.¹²³¹ Treasurer Oscar Fonts Sterling graduated from the University of Havana in 1891, becoming a substitute justice of the Audiencia of Havana in 1899 and member of the Board of Education in 1900.¹²³² The Deputies were also notable members of the Cuban society. Carlos Párraga Fernández was appointed substitute judge of the Audiencia of Havana since 1899.¹²³³ Ricardo Dolz was Chair of Procedure Law at the University of Havana since 1893.¹²³⁴ The other Deputies: Alvaro Caballero Rodríguez, Ricardo Calderón, Joaquín Freixas Pascual, Claudio González de Mendoza Pedroso and Carlos Fonts Sterling also were lawyers of the capital and members of the local elites.¹²³⁵ The Secretary-Accountant

¹²³¹ AHN UNIVERSIDADES 4774, Exp. 1. Academic file of Leopoldo Sola Iradi, student of the School of Law of Universidad Central in Madrid; *Decisiones y sentencias del Consejo de Estado* (Imprenta de Gracia y Justicia, Madrid, 1888), 343; and Rafael Nieto Cortadellas, *Genealogías Habaneras*, Tomo II (Imprenta Hidalguía, Madrid, 1980), 354.

¹²³² Congressional Series Set, Report of Major General John Brooke, Military Order 143 dated August 17th, 1899 and Military Order 286 dated July 13th, 1900, (Government Printing Office, War Department of the United States of America, 1901), 120.

¹²³³ Congressional Series Set, Report of Major General John Brooke, Military Order 143 dated August 17th, 1899 and Military Order 286 dated July 13th, 1900, (Government Printing Office, War Department of the United States of America, 1901), 120.

¹²³⁴ AHN UNIVERSIDADES 261, Exp. 14 and 13. These files contain the application and appointment of Ricardo Dolz for the Chair of Law at the University of Havana.

¹²³⁵ ANC Register of the Colegio de Abogados of Havana. For the description of the wedding of Claudio Gonzalez de Mendoza with María Teresa Freyre de Andrade as a social event of the local elite see *El Museo*:

Evelio Rodríguez Lendián, by contrast, was born in Guanabacoa and studied at the University of Havana in 1885 with insolvency scholarship; but became the Dean of the Faculty of Philosophy and Letters in 1898, being a prominent person within Cuban intellectual circles.¹²³⁶

The composition of the Board reflected the social and political complexities of the moment. The Board gathered Spaniards such as Ricardo Calderón, independentist Carlos Párraga and Evelio Rodríguez Lendián, and former autonomists Leopoldo de Sola and Ricardo Dolz.¹²³⁷ It comprised members of multiple social origins: wealthy families who could afford to study in Spain, such as González de Mendoza and Fonts Sterling, and local graduates who even had to study with support from low-income scholarships in the University of Havana, which was the case of Rodríguez Lendián.¹²³⁸ In some cases, such as González de Mendoza and Dolz, their families owned large estates, and were even members of the Cuban Association of Sugar Producers and the Board of the *Círculo de Hacendados*, respectively.¹²³⁹ At the same time, the members of the Board were members of a young generation with an average age of 43, and not selected upon the basis of seniority

Semanario Ilustrado de Literatura, Arte, Ciencias y Conocimientos Generales, Vol. 1 – 3 (Imprenta Avisador Comercial, 1882), 43.

¹²³⁶ William Belmont Parker, *Cubans of Today* (G.P. Putnam's Sons, New York and London, 1919), 43 – 47.

¹²³⁷ ANC Register of the Colegio de Abogados of Havana; Perez, *Cuba Between Empires*, 122; and Leopoldo Fornes-Bonavía Dolz, *Cuba cronología cinco siglos de historia, política y cultura* (Editorial Verbum, 2003), 105.

¹²³⁸ ANC Register of the Colegio de Abogados of Havana; AHN UNIVERSIDADES 4200, Exp. 1; AHN UNIVERSIDADES 4026, Exp. 2; William Belmont Parker, *Cubans of Today* (G.P. Putnam's Sons, New York and London, 1919), 43.

¹²³⁹ For González de Mendoza, see *The Sugar Sentinel*, Report of the Constitution of the Asociación Cubana de Hacendados Fabricantes de Azúcar on Havana, April 20th, 1914; and for Dolz, see William Belmont Parker, *Cubans of Today* (G.P. Putnam's Sons, New York and London, 1919), 501.

as used to be the case during colonial times. In spite of its private condition, the *Colegio* continued being the quarry for high rank political and judicial positions during the republican period. Members of the Board illustrate this characteristic. Ricardo Dolz, for example, would become President of the Cuban Senate, and Oscar Fonts Sterling, Assistant Secretary of Treasury.¹²⁴⁰

Although members of the local elite remained affiliated to the *Colegio de Abogados* in Havana, its new condition as private institution made the incorporation of more individuals to the profession of lawyer possible. Among the new enrollments to the School of Law, there were two Afro-Cubans: Bernardo Valdés and Juan Tranquilino Latapier Rengifo, who were students of law at the University of Havana in 1900.¹²⁴¹ The trajectory of Valdés remains unclear, while Latapier resumed his studies of law upon returning from the exile after the end of the war of 1895.¹²⁴² Latapier graduated on October 6th, 1902 and became famous for defending Afro-Cubans in their efforts to practice their religions freely during the 1900s.¹²⁴³ Latapier proved to have had great skills as lawyer arguing cases even before the Supreme Court of Cuba, and eventually becoming Chief of the General Register of the Secretary of State and Justice.¹²⁴⁴

¹²⁴⁰ Some of the members of this Board will assume important positions during the Republican period such as Oscar Fonts Sterling as Assistant Secretary of the Treasury, and Ricardo Dolz as President of the Senate. For the composition of the first Cuban government, see *World Almanac and Book of Facts* (Press Publishing Company The New York World, 1903), 146.

¹²⁴¹ Juan Felipe Risquet, *Rectificaciones: la Cuestión Política-Social en la Isla de Cuba* (Imprenta Patria, 1900), 170.

¹²⁴² Aline Helg, *Our Rightful Share: the Afro-Cuban Struggle for Equality, 1886 – 1912* (University of North Carolina Press, 1995), 130.

¹²⁴³ Alejandra Bronfman, *Measures of Equality: Social Science, Citizenship, and Race in Cuba, 1902 – 1940* (University of North Carolina Press, 2004), 56, 58 and 96.

¹²⁴⁴ Raimundo Cabrera, *Cuba y América: Revista Ilustrada*, Issues 40 – 57, “Dignificando una raza,” p. 539.

Once the *Colegios* ceased to have the duty to register and discipline all lawyers, as explained above, this function returned to the judicial system. In spite of Gener's crusade to eliminate the remnants of Spanish legal institutions still remaining on the island, the Cuban legal system preserved its Spanish roots. The Spanish Codes of Civil Law, Criminal Law, Procedure, Mortgage Law and Commercial Law continued being enforced after the occupation and in 1902 it was confirmed that they would persist.¹²⁴⁵ The University of Havana also continued teaching courses based on the Spanish legal tradition, and the faculty members were the same as in Spanish times. Notions of liberalism, however, were still disperse among Cubans and multiple tendencies coexisted during the American occupation. This diversity of opinions met at the convention to write the first Cuban constitution, a tangible crystallization of long-standing liberal aspirations.

The Cuban Constitution of 1901: Many Forms of Liberalism

After two wars of independence, and the establishment of a local political system, the people of the island logically wanted Americans to leave Cuba. They preserved their aspirations to create an independent nation. During the occupation, by contrast, many American politicians considered that Cuba would eventually join the Union.¹²⁴⁶ A rebellion that had started in the Philippines, however, made the Americans to move quite cautiously

¹²⁴⁵ Clifford Stevens Walton, *The Civil Law in Spain and Spanish – America*, (W. H. Lowdermilk and Company, Washington DC, 1900), 601. Criminal Law Code was effective until 1939, and Civil Law Code until 1987. The Organic Law of Judicial Power was revised by the Advisory Legal Committee during the Second Military Intervention enacting in 1909 a revised version of the Spanish law of 1870. Other Spanish laws, such as Commerce Law Code and Mortgage Law, are still partially enforced in Cuba, despite to some modifications.

¹²⁴⁶ Louis Pérez, 284.

in Cuba.¹²⁴⁷ Even when the idea of annexation remained popular among some Americans, Governor Wood, for example, expected voluntary rather than forcible incorporation of Cuba to the United States, a process that he called “annexation by acclamation.”¹²⁴⁸ This policy matched the fears of the American politicians to face a political crisis derived from a failed occupation of Cuba, a crisis whose likelihood was made evident by local anti-American manifestations that continued taking place in Havana and other locations.¹²⁴⁹ Consequently, the American government instructed Governor Wood to create the conditions for abandoning Cuba. Among others, Wood ordered the formation of a convention that would be in charge of writing the Constitution for the new Cuban republic.

Military Orders 300 of July 25th, 1900, and 315 of August 11th, 1900, organized the election of the convention’s candidates.¹²⁵⁰ Order 315 assigned the number of representatives and substitutes to be elected, based on the population of each province: Pinar del Río 3 delegates, Havana 8, Matanzas 4, Santa Clara 7, Puerto Príncipe 2, and Santiago de Cuba or Oriente 7. The Military Order provided a system of popular election to choose the delegates, which reflected the liberal approach to the process, while legitimating through popular support those who would draft the constitution. Yet, this electoral process did not fulfill the expectations of José Martí and other progressive liberals

¹²⁴⁷ Louis Pérez, 257 and 274.

¹²⁴⁸ *Ibid*, 279.

¹²⁴⁹ *Ibid*, 205.

¹²⁵⁰ United States Congressional Serial Set, Issue 4080, (USA Department of War, Washington DC, 1901), 53 – 54. Military Order 300 read: “It is ordered that a general election be held in the island of Cuba on the third Saturday of September in the year 1900 to elect delegates to a convention to meet in the city of Havana at 12 o’clock noon on the first Monday of November in the year 1900, to frame and adopt a Constitution for the people of Cuba (...).

who aimed for a republic with the universal participation of the inhabitants of the island. On the contrary, Military Order 316 set the following limitations to elect or be elected: native Cuban born or Spaniards who remained on the island after the Treaty of Paris; at least 21 years old; residents of the municipality of election for at least 30 days; and either being able to read and write, owning real or personal property for \$250 American gold, or having been honorably discharged from the Cuba Army by July 18th, 1898.¹²⁵¹ These requirements highlight how fighting in the war for independence was considered somewhat equivalent to receiving a certain amount of personal rent, or being literate. This regulation matched the sacrifices to have been in a Cuban battlefield with those of wealth and education, bringing into the same group independentist and autonomists. To be sure, it also created a venue for local elites to continue having dominant participation in Cuban politics. Still, merits and education, two tenets of liberalism, definitely replaced pre-liberal requirements, such as lineage. In any case, while the population of the island was approximately 1,500,000 inhabitants at the time, upon application of the eligibility criteria, only 349,098 Cubans voted for the delegates.

Candidates to the constitutional convention launched their bids and, after the elections, thirty-one delegates were chosen.¹²⁵² The representatives were a mixed group marked by

¹²⁵¹ Military Order 316, United States Congressional Serial Set, Issue 4080, 54.

¹²⁵² The members of the Constituent Assembly were Juan Rius Rivera, Gonzalo de Quesada, and Joaquín M. Quilez from Pinar del Río; Leopoldo Berriel, Miguel Gener Rincón, José Lacret Morlot, Emilio Nuñez, Alejandro Rodríguez, Manuel Sanguily, Diego Tamayo Figueredo, and Alfredo Zayas Alfonso from Havana; Pedro Betancourt, Luis Fortún, Eliseo Giberga, and Domingo Mendez Capote from Matanzas; José Braulio Alemán, José Miguel Gómez, Pedro Gonzalez Llorente, José de Jesús Monteagudo, Martín Morúa Delgado, José Luis Robau and Enrique Villuendas from Santa Clara; Salvador Cisneros Betancourt and Manuel Silva Zayas from Puerto Príncipe; and Antonio Bravo Correoso, José Joaquín Castillo Duany, José Fernandez de Castro, Juan Gualberto Gómez, Rafael Manduley, Rafael Portuondo Tamayo, and Eudaldo Tamayo from Oriente. See *Statements of the returns of the elections for delegates and substitutes to the constitutional convention*, Annual Report of the Secretary of War, (United States War Department, 1901), 40. José Joaquín

its diverse political background that included separatist members of the Cuban revolution, former exiled in the United States, ex-members of the Spanish colonial establishment and autonomists. The group also comprised as well a diverse social spectrum including aristocrats of noble ancestry such as Pedro González Llorente and Salvador Cisneros Betancourt, warriors of the Cuban Army with modest origins like Jose Lacret Morlot, and Afro-Cubans whose parents had been slaves, which was the case of Juan Gualberto Gómez and Martín Morúa Delgado. Intellectuals and individual engaged in liberal activities such as law and medicine, however, formed the largest social group in the Convention. In regards to their professions, legal professionals predominated in the convention with thirteen lawyers, two former students of law, and one *procurador*.

The lawyers within the Constitutional Assembly were all very well known members of Cuban society either because of their former role in the local politics or their participation in academia or professional bodies. The group comprised former members of the Spanish establishment such as the President of the University of Havana Leopoldo Berriel, the Major of Santiago de Cuba Antonio Bravo Correoso, and three former Deans of the *Colegio de Abogados*: Pedro González de Llorente, Miguel Gener, and Domingo Méndez Capote. Some of these lawyers had also joined the interventionist government becoming instrumental in the implementation of reforms on the island such as Manuel Sanguily as Principal of the Institute of Secondary Education in Havana, Domingo Méndez Capote as Secretary of State, Pedro González Llorente as magistrate of the Supreme Court, Luis

Castillo Duany, a doctor and expeditionary, was elected; but he declined and the also doctor José Nicolas Ferrer assumed his position.

Fortún as substitute justice, Enrique Villuendas as fiscal in Pinar del Río, and Miguel Gener as Secretary of Justice.

The legal professionals in the Constituent Assembly were representative of the political diversity that Cuban society experienced during the last years of the nineteenth century. There were former supporters of the Spanish control over the island, at least in the form of autonomism, like one of the leading figures of the former Liberal Autonomist Party, Eliseo Giberga, along with Berriel, and González de Llorente, a former *unionista*. Another significant number, by contrast, had a revolutionary past being involved in the wars and conspiracies for independence, including José Braulio Alemán, Rafael Manduley, Domingo Méndez Capote, Rafael Portuondo Tamayo, Gonzalo de Quesada, Juan Rius Rivera, Manuel Sanguily, Enrique Villuendas, and Alfredo Zayas. Some of them had been members of constituent assemblies during the wars for independence such as Rius Rivera in Baraguá in 1878; Manduley and Portuondo in Jimaguayú in 1895; Alemán, Fernández de Castro, and Méndez Capote in La Yaya in 1897; and Portuondo, Sanguily and Méndez Capote in Santa Cruz del Sur in 1898. Yet, the veteran Salvador Cisneros Betancourt, who studied to become an engineer rather than a trained legal professional, was the member of the Constituent Assembly of 1900 with the most extensive political and constitutional experience, having participated of every constitutional and revolutionary government since Guáimaro in 1869.

Although only half of the delegates were lawyers, the Assembly elected members of this profession to form the totality of its Board. On November 5th, 1900, Military Governor Wood opened the Convention and Secretary of State Fernando Figueredo presided over the meeting until two legally-trained delegates: Juan Rius Rivera and

Leopoldo Berriel, requested to follow the customary parliamentary practice to appoint the oldest and younger delegates as Interim President and Secretary, respectively. The assembly supported the motion, and two lawyers: Pedro González Llorente and Enrique Villuendas became elected for those positions. González Llorente was a wealthy member of the local aristocracy, 73 years of age. At this moment, however, González Llorente refused to imagine his election was due to any privileges or titles, and assumed the interim position based on his seniority.¹²⁵³ He expressed: "... The emotion that I feel right now is very big ... My election is based on an independent material circumstance, which is the accumulation of time over me through the years, so here I am, without any other title than being the eldest."¹²⁵⁴ In spite of his past as unionist, autonomist and author of "The Reforms and the Ghost" in 1893, González Llorente spoke in defense of the republican project: "it may be that we stumble along our way; ... but ... what prevails ... would be the desire ... for peace, order, progress, justice and, above all, independence."¹²⁵⁵ In turn, Villuendas, a former leader of the Cuban Revolutionary Army, said: "We have come here without prejudice, but committed to the ideal over which so many generations of Cubans have been sacrificed, and we shall not walk away without having, according to our

¹²⁵³ His original name was Pedro González de Llorente, which he modified by suppressing "de" thus making the last name sound less aristocratic. It is uncertain when he did this, but it should have occurred sometime during his transition from unionist to autonomist in the 1890s.

¹²⁵⁴ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, Sesión Inaugural, November 5th, 1900, 2. "*La emoción que siento en estos instantes es muy grande (...) Mi elección se deba a una causa material, independiente de mí, la acción del tiempo, que ha ido amontonando sobre mí los años; de modo que aquí estoy, sin ningún título más que el de ser el más anciano.*"

¹²⁵⁵ Ibid. "*Podrá ser que tropecemos en nuestro camino (...) pero (...) lo que preside (...) será el deseo (...) de la paz, el orden, el progreso, la justicia y sobre todo la independencia.*"

conscience ..., established the government of republican Cuba.”¹²⁵⁶ In both cases, President and Secretary stressed the idea of honor associated with the crafting of the Cuban republic; although moderate González Llorente did not invoke so graphically the human sacrifices that a revolutionary Villuendas witnessed in the battlefield. Both moderate and progressive positions, within the frame of liberalism, would be prevalent during the debates, and determined the provisions of the Constitution that would consecrate an independent and liberal Cuba.

To organize the discussions, the delegates wondered what set of rules they would follow. A legally trained José Braulio Alemán requested to use the regulations enacted in the Assembly of La Yaya, in 1897. He expressed: “I propose, since this convention is nothing more than a continuation of the ideal of the revolution, that here there be no other regulation that governs but that which governed us in the fields of free Cuba ..., the one of the assembly of La Yaya, the one of full revolution.”¹²⁵⁷ The Assembly voted this proposal unanimously, a decision that symbolized how its members perceived it as the continuation of the process of transformations that Cuba had experienced through the nineteenth century, including the wars for independence.

Upon adoption of La Yaya’s rules, the delegates elected the Board of the Assembly, a Commission of Style Correction, and formed Sections. The Board of the Constituent Assembly also comprised of five educated delegates who had legal training:

¹²⁵⁶ Ibid, 3. “*Hemos venido aquí sin prejuicios, pero consagrados al ideal por el que se han sacrificado tantas generaciones de cubanos, y que no saldremos de aquí sin haber, con arreglo a nuestra conciencia (...), dejado establecido el gobierno de Cuba republicana.*”

¹²⁵⁷ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, Sesión Inaugural, November 5th, 1900, 3. “*Yo propongo, puesto que esta convención no es más que una continuación del ideal de la revolución, que aquí no haya otro reglamento que rija sino aquel que nos rigió en los campos de Cuba libre (...) El de la Asamblea de La Yaya, el de plena revolución.*”

President Domingo Méndez Capote, Vice-presidents Juan Rius Rivera and Pedro González Llorente, and Secretaries Enrique Villuendas and Alfredo Zayas.¹²⁵⁸ Three lawyers also formed the Commission of Style Correction in charge of reviewing the minutes of the sessions: Manuel Sanguily, González Llorente and Alfredo Zayas.¹²⁵⁹ Finally, the assembly split into five sections of six members, in each of which there were 2 to 4 legal professionals.¹²⁶⁰ Each section had its internal board, and one representative to a commission that would write the proposal to be discussed in the plenary. Those representatives who wrote the first draft of the constitution were also legally trained delegates: Juan Rius Rivera, Leopoldo Berriel, Gonzalo de Quesada, Antonio Bravo Correoso, and Pedro González Llorente.¹²⁶¹ Among them, the moderates Berriel and González Llorente were those with the most extensive legal knowledge after several years in the academy and the judiciary, reason why they probably drafted most of the proposals submitted to the convention. In addition, they had worked together for decades as members of the Board of the *Círculo de Abogados*. Their influence could have determined the moderate, even conservative, approach of some articles, which raised passionate debates on the basis of different shades of liberalism present among Cubans.

The convention only lasted a few months, between November of 1900 and February of 1901. Certain issues required longer discussion than others, such as the relation

¹²⁵⁸ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, November 24th, 1900, 127.

¹²⁵⁹ Ibid, 128.

¹²⁶⁰ Ibid, 127.

¹²⁶¹ James H. Hitchman, *Leonard Wood and the Independence of Cuba, 1898 – 1902* (The Hague: Martinus Nijhoff, 1971). Chapter VI of this book refers to some aspects of the Constitutional Convention including the creation of this commission, reason why some drafts of the constitution appears signed only by these delegates.

between Church and state, freedom of religion, federalism or decentralization, popular participation in the administration of justice, free and mandatory education, and universal suffrage. All of them were hot topics within the liberal agenda. Irrespective of their political past, the members of the assembly, as a representation of Cuban society at large, claimed to embrace liberalism, and frequently referred to the word “liberal” as the ultimate goal of the entire constitutional project. Also, principles of modern civilization that Manuel Sanguily and many others had in mind were mostly derived from liberalism.¹²⁶² Liberalism, however, manifested differently in the interventions of the constituents and each of them defended a different so-called liberal approach.

The first controversial topic facing the convention was the invocation to “God” in the preamble of the Constitution. This early discussion unveiled how the liberal notions varied among delegates, and how some of them could not agree on a definitive position on certain matters. Cisneros Betancourt and Morúa Delgado, for example, were opposed to mentioning God, while Sanguily and González Llorente supported its inclusion. In his justification, Cisneros said: “I believe that our constitution should be the most liberal of the entire world, I believe that it should have religious freedoms, all that it can have, and should not put conditions, nor should the word religion be used in that constitution because then it would prove the right that certain religions have, and would restrict the legitimate right all religions have to issue their free and independent thoughts.”¹²⁶³ González Llorente,

¹²⁶² Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 217. “*Aquí no vamos a consagrar todo lo pasado porque haya sido pasado y tradicional, aquí vamos a aceptar aquello que nos legara el pasado y que esté de acuerdo con nuestros principios actuales; pero aquí al mismo tiempo venimos a consignar los principios de la civilización en las sociedades modernas que son faros que se levantan para iluminar la conciencia del pueblo, para guiarle en el camino que sigue en su evolución histórica.*”

¹²⁶³ Ibid, 164. “*Yo creo que la constitución nuestra debe ser lo más liberal del orbe entero, creo que debe tener libertades religiosas, todas cuantas pueda tener, y no debe poner condiciones, ni siquiera debería usarse la palabra religión en esa constitución porque entonces sería probar el derecho que tienen ciertas*

on the other hand, claimed: “Each delegate can believe in the existence of God what he wants, but those who are atheists do not have the right to ask that their vote prevail over that of the majority, which is here to fulfill the mandate of a believing people.”¹²⁶⁴ In a neutral position, a hesitant Juan Gualberto Gómez explained his double vote, void by the Presidency: “I have voted in favor (...) because I understand that it was not necessary to invoke the name of God in the Constitution; and I have voted against it, however, (...) because I understand that once the majority of the commission included that name, to demand its suppression would have hurt the feelings of the majority of our people.”¹²⁶⁵ After voting, the delegates approved the preamble with the invocation to God.

A similar debate arose in the discussions about freedom of religion. The proposal concerned the respect for every religion, as far as they comply with Christian morality. In his rather radical position, Cisneros Betancourt argued that the word religion should not be mentioned in the constitution, and concluded that, for him, religion was not more than an opinion.¹²⁶⁶ This comment received a heated response from González Llorente: “Asking that the word religion does not appear in the constitution is to ask for an impossible. To either admit it, protect it, reject it or condemn it we have to mention it ... Mr. Cisneros, who

religiones, sería coartarle el legítimo derecho que tienen todas de emitir su pensamiento libre e independiente.”

¹²⁶⁴ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 162. “Cada delegado puede creer respecto a la existencia de Dios lo que quiera, pero los que sean ateos no tienen el derecho de pedir que su voto prevalezca sobre el de la mayoría, que es aquí mandataria de un pueblo creyente.”

¹²⁶⁵ Ibid, 166. “He votado en favor (...) porque soy de los que entiende que en la Constitución no era necesario la invocación del nombre de Dios, y he votado en contra, sin embargo (...) porque entiendo que una vez puesto ese nombre por la mayoría de la comisión, era herir el sentimiento de la mayoría de nuestro pueblo al reclamar la supresión.”

¹²⁶⁶ Ibid, 208.

talks about liberalism, should not dare the tyranny of imposing his opinion on us.”¹²⁶⁷ To the last portion of the proposal reacted the *procurador* Manduley who, along the same lines of Cisneros, pointed out that the state should not recognize any religion, and that allowing only “Christian morality” they would be repelling the rest of religions.¹²⁶⁸ Manduley also said: “I prefer public to Christian morality because morality is not Christian ... It was born with men, is prior to the Christian era, and is recognized by the entire universe ... It is a condition of social subsistence.”¹²⁶⁹ Tradition, however, prevailed, and the majority of delegates approved the proposal including the expression Christian morality.

A third issue on religion concerned whether to include the phrase: the Church is separate from the State. In this case, some delegates were afraid to offend the Church, understood as the Catholic Church seat in Rome, and feared too that the young Republic of Cuba could receive a punishment for that reason. In defense of their position, delegates even redefined constantly the liberal tenets. Juan Gualberto Gómez, for example, said: “It is an anti-liberal doctrine that we, taking advantage of the circumstances of being gathered here for a narrow mandate, would pretend closing the right of our people to the future.”¹²⁷⁰ Another delegate, lawyer and professor Manuel Sanguily, was not afraid of the Church’s

¹²⁶⁷ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 209. “*Pedir que la palabra religión no figure en la constitución es pedir un imposible. Para admitirla, para protegerla, para recharzarla o condenarla tenemos que mencionarla (...) El Sr. Cisneros, que habla de liberalismo, no puede pretender la tiranía de imponernos su opinión.*”

¹²⁶⁸ Ibid, 208.

¹²⁶⁹ Ibid, 210. “*Prefiero moral publica a moral cristiana porque la moral no es cristiana (...) nació con el hombre, es anterior a la era cristiana, y esta reconocida por todo el universo (...) es condición de subsistencia social.*”

¹²⁷⁰ Ibid, 214. “*Es una doctrina antiliberal que nosotros, aprovechándonos de las circunstancias de estar aquí reunidos para un mandato definido, pretendamos ligar el porvenir, cerrar el derecho de nuestro pueblo hacia el mañana.*”

possible retaliation because of its omission from the Constitution, and rather affirmed that this institution required of its followers to survive economically: “Separated the church from the state, the clergy who did not please their parishioners would die of hunger.”¹²⁷¹ Sanguily, however, supported the idea to include the phrase in order to prevent future ties between the state and the Church, as the ones that had characterized colonial times: “One of the propositions of modern liberalism is the separation of the Church and the state ..., while the system ... of concordats and privileges of the Crown [with the Church] is old.”¹²⁷² Sanguily also surmised that: “A Congress that decides to establish a concordat [with the church] would have to violate the Constitution ... because it is not natural for everyone's money to pay for the beliefs of those who are not the whole country, those who may be no more than an insignificant part of him. That, indeed, is completely illiberal (...)”¹²⁷³ Lawyer Eliseo Giberga proposed a different interpretation where liberalism was the reason why new relations with the Church had been developed, that being a reason to preserve its inclusion with the newly formed republic: “neither the civilization nor the liberalism invoked have anything to do with this debate ... we can be civilized people and establish certain relationships between the Church and the State ... It was a triumph of liberalism, of those principles that we all love and all defend, to have established concordant

¹²⁷¹ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 217. “*Separada la iglesia del estado, el clero que no agradase a sus feligreses se moriría de hambre.*”

¹²⁷² Ibid, 222. “*Una de las proposiciones del liberalismo moderno es la separacion de la Iglesia y del estado (...) Lo que si es antiquísimo es el sistema (...) de concordatos y regalías de la Corona [con la Iglesia].*”

¹²⁷³ Ibid, 217. “*Un Congreso que decida hacer un concordato [con la Iglesia] habría de violar en otra parte la Constitución (...) porque no es natural que con el dinero de todos se paguen las creencias de los que no son la totalidad del país, de los que acaso puedan ser no más que una parte insignificante de él. Eso sí que es completamente iliberal (...).*”

relationships between the Church and the State.”¹²⁷⁴ With only four votes in favor, the phrase was not included in the final text of the Constitution.¹²⁷⁵

Another debate referred to decentralization. Some delegates like lawyer Giberga, inspired by the Spanish Constitution of 1869, preferred to avoid any mention to the existence of provinces without determining their territorial limits. As per Giberga, the omission of this topic from the constitution would allow a subsequent modification of the territorial organization without the need of a constitutional reform.¹²⁷⁶ Fernández de Castro, by contrast, wanted to split the province of Oriente in two: Cauto, comprising Manzanillo, Bayamo and Holguín; and, Oriente, for the territories of Santiago de Cuba, Guantánamo y Baracoa. He asked to set this rule in the Constitution as a way to preserve its effects.¹²⁷⁷ The representative from Holguín, *procurador* Manduley, supported Fernández de Castro’s motion upholding: “the decentralizing criterion that should prevail in all political groups, in all well-organized peoples, in which there is no possibility of positions claiming that the whole life of the nation, even the peculiar, private, intimate part of local interest, be regulated by the National Congress, where only issues of a collective nature must be regulated, in so far as they concern and matter to all the inhabitants of

¹²⁷⁴ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 218. “*Ni la civilización ni el liberalismo que se invocan tienen nada que ver en este debate (...) podemos ser un pueblo civilizado y establecer determinadas relaciones entre la iglesia y el estado (...) Fue pues un triunfo del liberalismo, de esos principios que todos amamos y todos defendemos, el establecimiento de relaciones concordatorias entre la Iglesia y el Estado.*”

¹²⁷⁵ Ibid, 224. Those who voted to preserve the relations between the Church and the State were Pedro González Llorente, Joaquín Quilez, Eliseo Giberga, and Juan Gualberto Gómez.

¹²⁷⁶ Ibid, 174.

¹²⁷⁷ Ibid, 166.

Cuba.”¹²⁷⁸ Although the division of Oriente did not find support among most delegates, the constitution still included the provincial organization based on the Spanish division of 1878, within a centralized republic.

A similarly controversial issue was the authorizations of jury trials. Inspired in the American legal system, *procurador* Manduley proposed to allow jury trials in the constitution. In his words: “I do not think that a jurist no matter how great, famous, or wise he is, even if he were Cicero himself, knows, or has more ability than the most common of men to discern about good and evil, and decide over a consummated fact.”¹²⁷⁹ Facing the opposition of lawyers Alfredo Zayas and González Llorente, Manduley insisted: “I beg the commission that when rising at the level of national life we rise in a modern way, without fear of freedom, without that fear of ghosts, children of ignorance and vicissitudes of the past, that, unfortunately, surface every day among us.”¹²⁸⁰ Later, Manduley added: “if we believe ourselves incapacitated [to form juries] we declare tacitly ourselves that Spain was right (...). Those who with their vote declare that we are incapacitated for universal and direct suffrage, to institute civil marriage, the administrative autonomy of the municipalities and provinces, and for some or other rights, support both the negative reason

¹²⁷⁸ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 183. “*El criterio descentralizador que debe imperar en todas las agrupaciones políticas en todos los pueblos bien organizados, en los cuales no cabe la posibilidad de escuelas que pretendan que toda la vida de la nación, aún la parte peculiar, privada, íntima, de interés local, venga a surgir y sea encauzada, reglamentada por el Congreso Nacional, donde no deben regularse otros asuntos que afectan y son de carácter colectivo, de modo tal que conciernen e importan a todos los habitantes de Cuba.*”

¹²⁷⁹ Ibid, 207. “*No creo que un jurisconsulto por grande, por famoso, por sabio que sea, aunque fuese el mismo Cicerón, sepa, tenga más facultad que el común de los hombres para discernir sobre el bien y el mal, y la declaración de un hecho consumado.*”

¹²⁸⁰ Ibid, 207. “*Suplico pues a la comisión que al surgir a la vida nacional surjamos a la manera moderna, sin temor a la libertad, sin ese miedo a los fantasmas hijos de la ignorancia y vicisitudes del pasado que, por desgracia se asoman todos los días entre nosotros.*”

of Spain, as well as the views of expansionists and protectionists.”¹²⁸¹ Despite Manduley’s efforts to enable jury trials in the constitution as an expression of modernity, his proposal was rejected and the Spanish traditional court system remained in place.

Another example of contrasting liberal positions took place during discussions about universal suffrage. The initial proposal gave the right to vote to every Cuban male 21 years of age or older. Some delegates, such as Leopoldo Berriel, supported a limited participation, just for those who were able to read and write. More radical members of the Assembly reacted to this position. José Braulio Alemán, for instance, expressed: “the suffrages are not weighed, they are counted; and that is what we must do, to count the vote of each of our citizens, because the eternal lesson here is that everyone wanted a free country, but only the less educated fought for it.”¹²⁸² Sanguily sided with Alemán arguing that: “What is left in Cuba after revolution and wars? First of all, the people; besides, that class that knows how to read and write, and that we could call middle class, and the remains of the old colonial aristocracy (...). With the exception of some people, the rest, including our aristocracy, is not worth more than those who do not know how to read or write.”¹²⁸³ In this case, Sanguily’s liberal position made every man equal before the law, although his

¹²⁸¹ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 208. “*Si nos creemos incapacitados [para formar jurados] declaramos tácitamente nosotros mismos que España tenía razón (...) Los que con su voto declaran que estamos incapacitados para el sufragio universal y directo, para instituir el matrimonio civil, la autonomía administrativa de los municipios y provincias, y para otros y otros derechos, hacemos buena la razón negativa de España y de los expansionistas y proteccionistas.*”

¹²⁸² Ibid, 273. “*los sufragios no se pesan, se cuentan; y eso es lo que nosotros debemos hacer, contar el voto de cada uno de nuestros ciudadanos, porque para enseñanza eterna aquí todos deseaban la patria libre, aunque solo la pelearon los menos cultos.*”

¹²⁸³ Ibid, 278. “*Que es lo que queda en Cuba después de revolución y guerras? Queda, en primer término, el pueblo; además aquella clase que sabe leer y escribir, y que pudiera llamar clase media, y los restos de la vieja aristocracia colonial (...). Con excepción de algunas personas, el resto, incluyendo a nuestra aristocracia, no vale más que el pueblo que no sabe leer ni escribir.*”

proposal did not rely just on popular participation. Sanguily also warned that establishing rigid requirements to have the right to vote for Cubans, the Constitution would end up giving supremacy to naturalized foreigners to decide the elections. “In the first elections that will take place, 96,088 Spaniards will have the right to vote ..., while we have only 112,000 Cubans who know how to read and write; and if these are the only natives who can vote ... within two or three years foreigners will dominate the island of Cuba.”¹²⁸⁴ Thus, Sanguily was not only concerned about the popular participation in terms of equality, but as part of a nationalist agenda to maintain Cuba under the control of those born on the island.

Within the discussions regarding universal suffrage, other contrasting positions among Cuban liberals manifested. The lawyer and progressive Secretary of Justice Miguel Gener Rincón questioned the gender narrow definition that the delegates were using. Gener said: “The amendment calls for universal suffrage; but it is a false universal suffrage, is not the true universal suffrage. Hitherto we understand by universal suffrage that one which we men enjoy; but we are not counting at all on women.”¹²⁸⁵ In response, the otherwise advanced liberal Manuel Sanguily opposed the motion: “The people of Cuba are not mature enough to accept this form [female] of suffrage ... and it is not of interest at this time.”¹²⁸⁶

¹²⁸⁴ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 279 – 280. “*En las primeras elecciones que ocurran tendrán el derecho de votar 96,088 españoles (...), mientras no contamos sino con 112,000 cubanos que saben leer y escribir; y si estos son solo los nativos que hayan de votar (...) dentro de dos o tres años en la Isla de Cuba dominarán los extranjeros.*”

¹²⁸⁵ Ibid, 283. “*En la enmienda se pide el sufragio universal, pero es un sufragio universal falso, no es el verdadero sufragio universal. Hasta ahora tenemos por sufragio universal el sufragio de que gozamos los hombres, pero no se cuenta para nada con las mujeres.*”

¹²⁸⁶ Ibid, 284. “*No está maduro el pueblo de Cuba para aceptar esa forma de sufragio (...) no interesa en este momento.*”

Gener still replied: “Mister Sanguily is not very democratic compared to me, I am a little more advanced than him, I am more of the people, and within the people I do not distinguish between men and women, when it comes to granting a political right, the right to vote in elections.”¹²⁸⁷ Despite Gener’s persuasion, the rest of the delegates ignored his proposal and the new constitution approved the universal suffrage that included those who did not know how to read or write, but excluded women. The women’s right to vote would have to wait twenty more years.¹²⁸⁸

The discussions in the convention included the issue of education, and whether it should be listed in the constitution. Lawyer Bravo Correoso did not even consider education a constitutional matter, while progressive candidates, like Manduley, proposed that education should be included to make it mandatory and free.¹²⁸⁹ This idea raised concerns among the delegates regarding the limit of the involvement of the state in education, and the impact Manduley’s proposal would have on university studies in Cuba. Emilio Nuñez, for instance, rejected the idea of paying college for all students with public funds.¹²⁹⁰ Quesada, in turn, claimed that the state should not have the control of university studies, and that private institutions should also be permitted to award degrees in, for instance, medicine and law.¹²⁹¹ President of the University of Havana Berriel reacted to

¹²⁸⁷ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 285. “*El señor Sanguily resulta muy poco demócrata a mi lado, yo soy un poco más avanzado que él, soy más del pueblo y dentro del pueblo no distingo entre el hombre y la mujer, cuando se trata de conceder un derecho político, el voto electoral.*”

¹²⁸⁸ On the movement for Cuban women’s rights, see K. Lynn Stoner, *From the House to the Streets: The Cuban Woman’s Movement for Legal Reform, 1898 – 1940*, Duke University Press. 1991.

¹²⁸⁹ Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 229 - 230.

¹²⁹⁰ *Ibid*, 230.

¹²⁹¹ *Ibid*.

this idea. He opposed the proposed liberalization of studies and the idea that private universities could grant degrees of medicine and law, which in his opinion must remain under state control.¹²⁹² In an intermediate position, Sanguily explained that the state should control the individuals engaged in those professions, as a way to protect society from their possible malpractice.¹²⁹³ After the debates, article 31 established that: “Primary education is mandatory and, as well as the schools of arts and crafts, will be free (...) Yet, every person can freely learn or teach any science, art or profession, as well as open and support educational establishments; but the state shall determine the professions for which special titles are required, the conditions for professional practice or the requirements necessary to obtain and issue the titles, in accordance with what the laws establish.”¹²⁹⁴ The article, thus, allowed the opening of other universities as a way to motivate private initiative. In the meantime, the legal profession would remain under the control of the state, and be taught at the University of Havana until other law schools would open in Cuba.¹²⁹⁵

To be sure the understanding of liberalism was far from monolithic, and the legal professionals that attended the convention proved this diversity. A recently self-proclaimed liberal González de Llorente defended anti-liberal positions such as the preservation of the

¹²⁹² Diario de las Sesiones de la Convención Constituyente de la Isla de Cuba, 231.

¹²⁹³ Ibid, 233.

¹²⁹⁴ Constitution of Cuba of 1901, article 31. “*La enseñanza primaria es obligatoria, y así esta como la de artes y oficios serán gratuitas. (...) No obstante, toda persona podrá aprender o enseñar libremente cualquier ciencia, arte o profesión y fundar y sostener establecimientos de educación y enseñanza; pero corresponde al estado la determinación de las profesiones en que se exija títulos especiales, la de las condiciones para su ejercicio o la de los requisitos necesarios para obtener los títulos, y la expedición de los mismos, de conformidad con lo que establezcan las leyes.*”

¹²⁹⁵ In spite of the option created by this constitutional article, the studies of law in Cuba continued concentrated in the University of Havana, which changed its name to National University during the republican period.

relations between the state and the Church. Berriel, on the other hand, also identified as liberal while supported the control of the state over education and professional licenses, against the individual initiative. Manuel Sanguily, who portrayed himself as a radical liberal, often assumed moderated positions on issues such as religion or political participation when, for example, deprived women to the right to vote. Other liberals such as Miguel Gener and Rafael Manduley manifested a more consistent observance of the tenets of liberalism when claiming universal political participation or decentralization, respectively. In any case, the constituency proved the weaknesses and difficulties in the implementation of liberalism, and how any person different to pro-Hispanic could identify himself as liberal, and the propose a different based on personal background, generation or interests.

The most difficult decision of the delegates, however, did not pertain to the actual text of the Constitution; but concerned an appendix sent from the United States. This was the Platt Amendment, which authorized the United States to intervene in Cuba under a long list of circumstances, and to establish naval bases on the island. In any case, Americans made clear that there would be no republic if Cubans did not approve the Platt Amendment. Once more, delegates split on this issue. While Sanguily and Cisneros Betancourt, among others, repelled this document as an attack to the Cuban sovereignty, others delegates decided to approve it trusting in the benefits derived from having an alliance with the United States. Eventually, most delegates voted in favor of the Amendment, as the only way realistic way to have an otherwise liberal and modern Cuban state.¹²⁹⁶

¹²⁹⁶ For this topic and the effects of the Platt Amendment in Cuba during the following decades, see Louis Pérez, *Cuba Under the Platt Amendment, 1902 – 1934*, University of Pittsburgh Press, 1986.

After four months of deliberations, the Assembly finally approved the Constitution on February 21st, 1901. With 115 articles, the Constitution regulated the bases of the Cuban republic, included a long list of individual rights, and organized the state. In spite of the limitations that the Convention had to define what “people” meant, the Constitution granted equality and popular participation in its article 43, stating that: “Sovereignty resides in the people of Cuba and from this all public powers emanate.”¹²⁹⁷ The state replicated the structure of the United States of America and other modern states with constitutions based on the separation of powers: legislative, executive and judiciary. A bicameral Congress, divided into Senate and House of Representatives, formed the legislative branch. The President, the Vice present and the Secretaries, made up the executive. A system of tribunals lead by the Supreme Court of Justice comprised the judiciary. The Constitution also included a rigid clause of reform that required two thirds of the Congress to approve its modification.¹²⁹⁸

As a result of the diverse liberal positions surfacing during the Constituent Assembly of 1901, the Constitution combined past and present, tradition and modernity. Led by the calls for progress, the delegates adopted rather revolutionary regulations while preserving others from colonial times. Constituents eliminated privileges and regulated a wide array of freedoms, but did not grant women the right to vote, though, following the standard of the time, they still called the final product “universal suffrage.” Delegates understood that the state should not have ties with the Church; but some of them still held

¹²⁹⁷ Constitution of Cuba of 1901, article 43. “Soberanía reside en el pueblo de Cuba y de este dimanar todos los poderes públicos.”

¹²⁹⁸ See Constitution of Cuba of 1901, Title V and ss.

the church in high respect to see it just as a political organization and even feared the potential repercussions from establishing a lay state. The Constitution of 1901 followed the legislative model of the Spanish and Latin American Constitutions composed of Preamble, General Principles, description of the state, enumeration of rights and the Clause of Modification.¹²⁹⁹ The Constitution of 1901, however, was the result of multiple social and political movements in Cuba through the nineteenth century, and set the basis for the first Cuban national state.

Conclusions

During the second half of the 1890s, the two most important liberal groups in Cuba: independentist and autonomist moved for the implementation of their agendas. With a radical liberalism that included the separation from Spain, legal trained José Martí and other revolutionaries rose in arms on February 24th, 1895. Although legal professionals did not participate as actively as they did in the organization of the war of 1868, they gradually incorporated to the new revolutionary movement. As in the previous war, lawyers provide the independentist movement with the legal insight in the drafting of their constitutions, laws and functioning of the republican government, especially in the figures of Domínguez Méndez Capote, Aurelio Hevia, or *procurador* Rafael Manduley.

A second liberal group emphasized in its agenda the authorization of a local government on the island with autonomy to the one in Madrid. This idea has existed among Cuban minds since the early nineteenth century, but Spain had always rejected it. In 1897, facing the growing force of the revolutionary army on the island, Spain authorized the

¹²⁹⁹ See Constitution of Cuba of 1901, Title V and ss.

autonomic government for Cuba and Puerto Rico. This regime proclaimed to be liberal while did not provide universal suffrage or political participation; and only members of the Cuban elite were able to join this government. Once again, lawyers were instrumental in the organization and establishment of this regime, and some lawyers such as Ricardo Dolz abandoned the revolution to join this aristocrat political system.

While these two regimes coexisted in a Cuba at war, the American Intervention frustrated both liberal projects, and influenced the political shape of the regime emerging after the end of hostilities. The Governor of occupation that Washington sent to the island, John Broke, started appointing liberals, many of whom were lawyers, for key positions within his administration. During this period, the Secretary of Education initiated a reform of the instruction system nationwide that included the reform of the legal training, especially after 1900 under the direction of positivist Enrique José Varona. The Secretary of Justice also greatly impacted the community of legal professionals, mostly under Miguel Gener, who eliminated the public status of the *Colegio de Abogados* as a part of a project to eliminate remnants of Spanish institutions on the island.

At the same time, as an example of what happened to the rest of the inhabitants of the island, legal professionals remained divided on various elements of the liberal agenda. Consequently, after a century of struggles for the implementation of liberal reforms in Cuba, when an assembly mainly made up of lawyers gathered in 1900 to write the republican constitution, all forms of liberalism emerged and clashed. Former members of the Spanish party, autonomism and independentism appeared embracing liberalism as the ideal of the convention, and manifested through the debates their diverse political and social views. Very often, delegates' proposals broke with liberal tenets and, for instance,

they voted limited political participation rather than universal suffrage, and preferred to preserve tradition to eradicate the relations between the Catholic Church and the state. The constitutional assembly, thus, resumed the five years of political conflicts in Cuba and illustrated, through the legal professionals, the various interpretations of liberalism that were foundational to the new Cuban republic in 1902.

VII. Conclusions

Lawyers were promoters of change in Cuba since the beginning of the island's colonization. To be sure, they were not free from controversy. As early as 1513, early settlers complained about the number of lawyers establishing themselves in Cuba, and the Spanish Crown issued a ban on lawyers moving to America in 1521. This rule reflected an early contradiction between members of the profession and the Spanish crown, which resulted in the availability of a very limited number of lawyers on the island. By default, *procuradores* and *escribanos* provided most of the legal services. This situation changed in the eighteenth century when the number of lawyers on the island started increasing, reaching almost 100 in Havana alone by 1795. Spain resumed efforts to prevent the expansion in the number of lawyers by requiring that applicants be *peninsulares*, along with studying at and graduating from a Spanish university and having held an internship at a law firm. Yet, the growth in the size of the Cuban population required a larger number of professionals, including lawyers.

After almost three hundred years of restrictions, the turn of the nineteenth century brought about favorable conditions for the increase of the number of lawyers in Cuba. The expansion of the Cuban economy, the establishment of an *Audiencia* on the island, and the relocation of several lawyers to Cuba from other areas of Spanish America facing political turmoil, multiplied the number of lawyers in a few years. At the same time, the spread of reformist ideas among creoles put into question the nature and structure of colonial society, the authority coming from Madrid, and even proposed the formation of autonomous local governments. This idea materialized during the French occupation of Spain, between 1808 and 1814, when local leaders created *Juntas* on the island, and creole lawyers drafted

constitutional proposals, including autonomic and independentist ones. As part of the liberalities of this period, in 1812 lawyers from Havana requested to open a *Colegio* to preserve professional ethics at a time when *picapleitos* allegedly proliferated across the island. This request was not granted but inspired the returning King Ferdinand VII's forthcoming legislation on lawyers.

In 1816, Ferdinand VII established a system of quotas limiting the number of lawyers for each important town on the island. The numbers designated did not reflect the actual needs of the population, but certainly reiterated that control over the size of the legal profession remained a central component of the contradictions between Madrid and Havana. Subsequently, the number of lawyers continued growing, which brought about a revised legislation in 1819 ordering the creation of *Colegios de Abogados* with limited membership in Havana and Puerto Príncipe, the capital and the residence of the Audiencia, respectively. Academias de Jurisprudence started to operate as well. This regulation also included revised requirements to practice law, which increased the control not only over *picapleitos* but also over lawyers too.

While some conservative lawyers aimed to preserve a limited number through *Colegios de Abogados*, other progressive legal professionals became promoters of change through the spread of liberal ideas. One of the main proponents was Félix Varela, creole priest who started teaching classes on constitutional issues in 1820, and educated a generation of activist lawyers many of whom later engaged in conspiracies against Spanish control over Cuba. As part of this movement, a temporary liberal government in Madrid, between 1820 and 1823, received two new constitutional projects from the island

demanding local autonomy. In the meantime, the Spanish Cortes voted in favor of the liberalization of some professions such as medicine and law.

Upon Ferdinand VII's second restoration in 1823, he tried to reassert his power on the island, especially after losing most of his other possessions in Spanish America. For that reason, attempts to exert control over lawyers mounted, including the final opening of the *Colegio* of Puerto Príncipe in 1831, and of two Academies of Jurisprudence around the same time. Yet, lawyers increasingly engaged in reformist and separatist movements. The establishment of limited quotas for the number of lawyers across the island forced some of them to relocate. The spreading of legal professionals to other towns often involved the carrying of ideas of reform and new liberal legal views, based on migrating lawyers' recent education and experience. Additionally, other legal professionals forced to move away belonged to traditional families that were part of the colonial establishment and local bureaucracy. Some of them also faced the obstacles to find a position in an increasingly competitive job market, eventually clashing with the Spanish policy for that reason, and joining the liberal movement on related matters. The diversity of interests that creoles pursued through the expected reforms reflected the existence of various trends within the liberal movement.

The establishment of the liberal regime in Madrid in 1833 promoted significant reforms across the Empire such as the introduction of a new territorial division in Spain and forms of popular participation. Although limited, these transformations set the basis for a new regime under the control of liberals and the establishment of new policies that would affect the legal profession. The most important reforms were the creation of the Court of Vagrants and Pettifoggers in 1836, and the enactment of uniform statutes for the *Colegios de*

Abogados in the Empire. The Court was intended to prevent idleness, as well as unethical legal practices, providing a new layer of oversight above lawyers. It introduced as well new sanctions on members of the legal community. The statutes, on the other hand, regulated the mobility of lawyers forcing them to inscribe themselves in *Colegios*, and creating these institutions across the island. Some of the activities of these *Colegios* included the appointment of *abogados de pobres*, which, along with *síndicos procuradores*, provided legal representation to lower income people and slaves, respectively. Both institutions regulated and introduced mechanisms of social protection around the profession of lawyers, but they also increased control over those involved in legal practice.

Another significant reform was the secularization of education, including legal training. In 1842, the University of Havana became a public and official institution controlled by the state, with a renovated system of Chairs and faculty, most of them educated under the influences of liberalism. In addition, Madrid forbade the teaching of law in any other academic institution in Cuba, which caused the closing of legal courses in the *Colegios* of San Carlos and San Ambrosio in Havana, and also in San Basilio Magno in Santiago de Cuba. The existence of *Colegios* or associations of lawyers, on the other hand, created alternative mechanisms of evaluation of candidates to legal practice, through the system of *ternas*. Then, the secularization of legal training also brought about higher professionalization and, as mentioned above, increasing control over legal practitioners.

Being able to study and pass the internship on the island itself rather than Spain, the number of lawyers continued growing, especially in Havana, where available jobs remained small in proportion to the number of graduates aiming for bureaucratic positions. Therefore, the number of lawyers out of the public sector increased, while they formed a

new social and professional cluster with new interests and aspirations in the private sector. This caused, on one hand, Spanish authorities to order the reduction in the number of authorizations granted to lawyers to practice on the island; and, on the other, that lawyers became the central leaders of new political movements in Cuba. The two most significant political forces in Cuba during the 1840s, besides *peninsulares* loyal to Spain, pushed for the implementation of more liberal reforms, including autonomy, or the annexation of Cuba to the United States. Lawyers became active members of these movements, in and out of the island.

In a last attempt to further police the lawyers of Havana, Captain General Chacón approved the opening of the *Colegio de Abogados* in Havana in 1852. Several lawyers attended to the inauguration, and many more submitted their request for *colegiatura* or membership. This institution, however, only remained opened for a few months after the colonial authorities identified members of the Colegio among the leaders of an annexationist revolt in Western Cuba, including the recently elected Dean Anacleto Bermudez Pérez de Corcho. This event also led to the prosecution of lawyers, some of whom were sent into exile or prison, and deprived of any other professional institution in the city. This included the *Sociedad de Socorros Mutuos*, which also closed its doors in 1852 for lack of funding. In spite of its short existence, the Colegio proved the prevalence of liberal ideas among lawyers when their statutes, for example, did not include the requirements of lineage or *limpieza de sangre* to become a member.

After the pacification of the island in the 1850s, Spain continued its control over Cuba and its legal professionals. As part of this policy, lawyers had to pay 2% more taxes on their revenues after 1856, and there were censuses of legal professionals gathered in 1857.

Yet, a moderate regime in Madrid during the 1860s tried to work with creoles in order to resolve the longstanding problems of Spanish colonialism on the island, while prolonging the prevailing peace. For that reason, local notables received official awards, and liberal publications were allowed to circulate across the island, such as the *Revista de Legislación and Jurisprudencia*, and the newspaper *El Siglo*. In addition, Madrid called Cubans to elect representatives to attend the Spanish Cortes in 1866, in what was called the *Junta de Información*. This commission was composed of local representatives, including various lawyers, who pursued conversations about the abolition of slavery and autonomism. The group, however, had different opinions, and the Cuban representatives neither could reach an agreement amongst themselves nor materialize any of their liberal requests. As a result, a demoralized Cuba received their delegates back with the conviction that no solution could be achieved through peaceful negotiations. A new generation, mostly formed by creole lawyers, started mobilizing to confront Spanish colonialism with the force of arms.

In 1867, liberal creoles from Eastern Cuba started organizing an uprising for Cuban independence. Among the leaders of the movement there were many lawyers, mostly members of the *Colegio de Abogados* in Bayamo. During one of their meetings, the movement constituted a board comprised of lawyers, expected to spread the ideas of revolutionary mobilization across the island using professional networks they had in other territories. Lawyers did not show much support in Havana, Santiago or Las Villas, while in Bayamo and Puerto Príncipe they mobilized themselves massively. This process was parallel to other mechanisms of mobilization such as the Lodges of Freemasons, which mostly operated in areas where lawyers did not successfully engage in the conspiracy, though.

The uprising took place on October 10th, 1868 in Manzanillo led by the lawyer Carlos Manuel de Céspedes. Other members of this *Colegio* followed him and became instrumental in seizing the city of Bayamo shortly after. Lawyers from other territories eventually joined the conspiracy, except in Havana and Santiago where the number of revolutionary jurists was rather scarce. In this Eastern city, the Colegio de Abogados continued in operation during the war, unlike those in the rest of the territories, with a membership mostly loyal to Spain.

In Havana, the leader of the liberal lawyers José Morales Lemus finally joined the revolt but had to leave Cuba to establish himself in New York where he worked in the Revolutionary Board organized in there. Many other lawyers from the capital followed his example, and either joined the conspiracy or left Cuba to avoid political persecution. As a result, almost 40% of lawyers from Havana left, while loyalist members of the colonial bureaucracy remained behind. This created a need for lawyers in the city, while little opposition surfaced to respond to arbitrary applications of the law, such as the shooting of the students of medicine in 1871. At the same time, smaller towns of Cuba such as Matanzas and Pinar del Río, which remained mostly in peace during the war, saw an increase in the number of their legal professionals. They did not escape from growing political control, but in any case those were the only areas where the number of lawyers increased during this period.

Following the liberal ideal, the uprising constituted as a republican government in 1869 in Guáimaro. A constitution enacted there set the legal basis for a democratic system and implemented the principle of equality across the freed territories. The first government was made up of lawyers mostly, while a House of Representatives had three recently graduated

students of law who enacted abundant revolutionary legislation that, in some topics, was more progressive than the one in Spain. The liberal spirit not only manifested itself among those with legal training, but other leaders of the uprising who were not lawyers also wrote documents proclaiming liberal ideals of popular political participation and the rule of law, such as Vicente García, leader of two seditions.

Carlos Manuel de Céspedes formed his government mostly with colleagues and friends from the Colegio de Abogados of Bayamo. This fact proved how the professional network of lawyers continued being decisive in the implementation of the liberal agenda and the organization of the revolutionary movement to achieve it. At the same time, other groups such as those from Puerto Príncipe felt excluded, and deep contradictions arose among the members of the Cuban republic. Those contradictions eventually led to the loss of support by Céspedes and his removal as president in 1873.

The war affected legal education on the island. The number of students dropped out of the University of Havana by more than a third, including those in the school of law. As a response, Spain increased the number of students that could receive tuition waivers based on insolvency and poverty, and more individuals were thus eligible to pursue this career. At the same time, the university preserved a faculty mostly loyal to Spain, and it modified the plan of studies eliminating temporarily the Doctorate in Law. Still concerned with legal training on the island, liberal scholars such as José María Carbonell promoted the practical teaching of legal skills and even requested the opening of a special academy in 1874. This institution was approved only for a short period of time, while Spain authorized the opening of other centers of education that lawyers requested, which proved the metropolis's intention to keep special control over the spread of legal knowledge on the island.

Creole students who belonged to wealthy families preferred to enroll in universities abroad. Yet, many of these students paradoxically engaged in liberal movements in Spain and returned to the island as promoters of abolitionist ideas and other related reforms. Spain approved an abolitionist law in 1870, but it was slow to implement it and did not completely resolve the issue for the island. At the same time, Spaniards relocated to Cuba; and among them the island received the first Afro-descendant graduated of law, Rodolfo de Lagardere. He was the grandson of a slave-trader and an African princess and was born in Barcelona where he attended the School of Law. Eventually he, a devout loyalist, was sent to Cuba in 1874 because of his participation in the revolts to restore Alfonso XII to the Spanish Crown.

In 1878, the moribund revolutionary government elected the seditious Vicente García as its leader. He started planning the demobilization of the Cuban troops. After some negotiations, Cuba and Spain signed the peace in February of 1878, in El Zanjón. Some Cuban leaders still were opposed to lay down their arms. For this reason, Maceo and others decided to continue fighting and even drafted a new constitution and organized a new government which only lasted few months until the last revolutionary leaders abandoned Cuba. Spain had won the war, and the lawyers still in office had proven loyal to Spain. Symbolic of this was that the *Guía de Forasteros* of 1878 announced the Galician judge Francisco Loriga Taboada as Dean of the lawyers in Havana.

After the signature of the peace agreement, Cuba entered into a process of reconciliation. As part of the agreement, Spain extended to Cuba constitutional freedoms such as freedom of the press, speech and association, although restricted to limit political confrontations. Many lawyers returned to Cuba and reestablished their law firms or assumed public offices, while their applications for public jobs were silent regarding their

participation in the war. Most former independentist assumed positions rather moderate or even conservative. Yet, Spain resumed the *Colegios de Abogados* as a mechanism to control lawyers, and these institutions started reopening across the island, including Havana in 1879.

The membership in the *Colegio* was a requirement to practice law. For that reason, individuals with diverse background and ideas joined the *Colegio*. The statutes of the *Colegio* were inspired on the legislation on lawyers in nineteenth century Spain, including the Standard Statutes of 1838, and the Law of Organization of the Judicial System on 1870. As a result, the statutes followed the liberal approach of 1852, which did not require *limpieza de sangre*; but the new statutes made the highest contributors, rather than senior lawyers, those in charge to draft the statutes and run the institution, proving that wealth had displaced lineage and seniority in the Cuban legal community. Members were expected to behave with honor and obedience, while the Deans of the *Colegio* mostly were notable pro-Spanish members of the local legal community.

Along with the *Colegio*, lawyers in Havana created the *Círculo de Abogados*, to enhance legal training in the city. Although led by the conservative Pedro González Llorente, most of the *Circulo's* lectures and lecturers were liberal. This institution played a significant role in the development of Cuba's legal intelligentsia. Many professors of the School of Law became also directors of sections of the *Colegio*, and new legal scholars were promoted to the institute. It also organized events and tournaments where occasionally liberal ideas surfaced, which was the case of the abolition of slavery. Spain also reformed the plan of studies of the School of Law in 1880, while a new generation of professors joined its faculty promoting the reform of legal training on the island.

The positivist ideas in Cuba since the 1870s had an impact on the legal profession. Cubans claimed the extension of the Spanish Codes to the island and reorganized as well the *Círculo de Abogados* and reformed the plan of studies of the University of Havana emphasizing practical legal skills. Hence, Natural Law and Philosophy were marginalized, while education focused on the learning of legal techniques and their applicability in courses of, for example, Civil Law, Criminal Law and Legal Procedure. In addition, positivist ideas also promoted the allegedly scientific study of Cuban society, relying on theories that justified the superiority of some races over others. Those ideas, although embraced by most Cuban liberals, prevented the full implementation of liberalism on issues such as equality before the law, making the process of racial integration on the island considerably slow.

In the social sphere, lawyers also engaged in the last debates for the abolition of slavery. Based on its new condition as a province, Cuba received representation in the Spanish Cortes, and elected liberal delegates, who were mostly lawyers, pursued the project to accelerate the process of abolition initiated in 1870. After various modifications to the legislation, slavery was eventually abolished in 1886. Shortly thereafter, Afro-Cubans joined the legal profession with procurador Manuel Bergues Pruna in 1893, and University of Havana student Juan Tranquilino Latapier in 1894. Additionally, the first woman graduated from the School of Law in 1893. Francisca Rojas Sabater, however, did not enroll in the Colegio de Abogados and continued working as a schoolteacher, thus symbolizing the rigid social boundaries for the development of women in late nineteenth century Cuba.

After the signing of the peace agreement following the 10 Years War, local lawyers continued being the leaders of the political factions on the island. Based on ideas of public participation, Spain authorized the formation of political parties in Cuba, the most important being the Liberal Autonomist and the Unión Constitucional, or conservative party. The liberal party advocated for a local autonomous government and reforms, while the other supported the Spanish presence on the island and its direct subordination to Madrid. Lawyers were instrumental in the creation and functioning of each party, as well as of those factions that split from the main organizations. They also contributed to organize the local elections that took place in the island during the following two decades. Both parties, however, did not greatly differ on their approaches to economic and tax reforms, promoting the economic development of the island. Hence, a common interest to develop trade and capitalist ideas was apparent, while the ideas of liberalism acquired at the same time multiple shades across the island.

The last five years of the Cuban nineteenth century were characterized by the clash of multiple liberal positions to solve the lasting problems of the Spanish colonial crisis on the island. Aimed to achieve the long awaited independence, progressive liberal forces organized a military uprising in 1895, while moderate liberals condemned these events and continued working to establish an autonomic regime. The main leaders of both political factions were lawyers, although the largest majority of them wanted to continue under the Spanish administration. The members of the legal profession, in contrast to the uprising of 1868, did not thus mobilize massively, and rather remained willing members of the colonial establishment. Consequently, when Spain granted to Cuba the status of autonomy in 1897,

many lawyers joined the Insular Parliament, and legal professionals mostly formed the local government.

As the war spread across the island, more lawyers joined the insurrection. The members of the separatist movement, as their predecessors in Guáimaro, constituted their government in Jimaguayú in 1895 and in La Yaya in 1897. Some legal professionals that were members of the rebel army attended those meetings, and also joined some of the government bodies organized by the rebels, except not as massively as had happened in 1869 under the leadership of Carlos Manuel de Céspedes. This tendency marked a departure from the previous revolutionary government based on professional networks. The incorporation of other members of Cuban society, as well as members of other professions such as medical doctors, became common. As happened during the Ten Years War, the number of lawyers declined overall, including those who joined the war, those who went into exile to avoid a country at war. Another contributing factor was that the subscription to the Colegio de Abogados dropped to their lowest number during those years.

The intervention of the American Army in the war caused Spain to finally lose Cuba in 1898. Shortly after the signing of the peace, the Americans started introducing reforms that mostly identified with the liberal demands, finding support among many Cubans who hope progress and modernity would be forthcoming. Many *peninsulares* decided to support the intervention to protect their businesses and material interests, but other members of the Spanish bureaucracy decided to return to Spain and continued under Spanish jurisdiction. This exodus created a fair number of vacant positions that many lawyers, who were returning from the exile or from the battlefield, did not take long to apply for thus becoming

members of the new administration. Therefore, a cabinet mostly integrated by Cuban liberals operated on the island under the American administration. It issued military orders to implement the transformations in each of the Secretaries government became divided into.

During the occupation there were various Secretaries of Justice, all of them characterized by their liberal stance. One of them, Miguel Gener Rincón, had the most radical ideas hoping to erase the colonial past and replace obsolete judicial structures by a national and modern judiciary. Among his reforms, Gener proposed the Military Order 500 of 1900, which eliminated the public character of the *Colegio de Abogados*, as well as the requirement to be a member of a *Colegio* in order to be able to practice law on the island. This reform caused the *Colegio* to lose a significant number of members, who did not renew their memberships in the year 1901. Yet, the legal professionals who were members of the local elite continued being members of the *Colegio* now viewed as a source of prestige. The *colegiatura* or membership became a sign of reputation rather than a requirement to practice. At the same time, this reform lifted some restrictions to become a lawyer and facilitated the increase in the number of lawyers during the following years. It also made possible the incorporation of members of other social strata to the profession since they were not longer forced to pay a contribution to the *Colegio*. Similar reforms took place in legal training where the plan of study was revised, some Chairs, such as Canon Law and Natural Law were eliminated, and Roman Law reduced to one year, thus opening more space for the teaching of practical courses.

The most significant of the legal reforms during the occupation was the order to write a constitution in 1900. Half of the members of the constituent assembly were legal

professionals, and they represented the multiple ideas and interpretations that the liberal agenda presented on the island at the time. The contradictions in the debates showed that moderate and progressive liberals still had problems agreeing on certain issues such as relations between the Church and the State, universal suffrage, decentralization, and freedom of religion. Yet, the delegates proved that Cubans were determined to enact their first national constitution and that, in spite of limitations such as the Platt Amendment, they had finally achieved their aspiration to create a liberal state. The assembly also represented the social and political work of lawyers as an indispensable force for the gradual recognition of rights of the Cuban people since the Spanish colonialism. The legal community was clearly an engine integral to driving the process of change, institutional and otherwise, in Cuba throughout the nineteenth century.

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APPENDIX

Number of lawyers in relation to the population of Cuba during the nineteenth century

Year (Census) ¹³⁰⁰	Number of Lawyers in Havana	Number of Lawyers in Puerto Principe	Number of Lawyers in Santiago de Cuba	Number of Lawyers in Cuba	Population of Cuba
1792	85				274,000
1817	106	18	16		553,000
1827	212	47	27	350	704,500
1841	329	65	34	553	1,007,600
1861	494	67	48	693	1,366,000
1877	298	12	23	503	1,509,300
1887	397	23	23	950	1,609,000
1899	215				1,572,800

¹³⁰⁰ There were Census in Cuba these years, and the data on Cuban population is an approximation based on the information in the website of the National Office of Statistics of Cuba available at www.one.cu

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PRESENTATIONS AND PUBLICATIONS

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Pelegrín Taboada, R. (June, 2018) *The colonial control of legal knowledge: the case study of Cuba*. Paper presented at the Annual Meeting on Law and Society, Toronto, Canada.

Pelegrín Taboada, R. (April, 2018) *Preserving Spanish legal traditions: Cuban lawyers during the First American Intervention (1898 – 1902)*. Paper presented at the meeting of the 49th Annual Conference of the Association for Spanish and Portuguese Historical Studies, Portland, Oregon.

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