

## Cartagena: Equality and Natural Law

With the second largest concentration of slaves in the New Kingdom, the province of Cartagena also witnessed pre-revolutionary criticisms of slaveholding and a budding egalitarian sensibility. The process was particularly textured in Mompox, where magistrate Melchor Sáenz de Ortíz condemned slavery altogether in 1804. In the judicial forum, on behalf of the slave María Magdalena Soto, he argued that enslaving others was senseless and inhuman. Slavery, he asserted, only existed in “the legal codes.”<sup>1</sup> It was an act of force supported by appalling written laws; according to natural law, however, slavery was illegitimate. Understood as the highest source of individual rights, granted by nature and universally valid, natural law became increasingly crucial for slave litigants and their aides in the decades leading up to 1810. Like Sáenz de Ortíz, some expanded the implications of the doctrine – worked out by seventeenth-century thinkers and scrutinized by eighteenth-century publicists – to reject slavery altogether.<sup>2</sup>

The study of natural law in the colleges and law offices of the viceroyalty accelerated in the mid-1770s. All humans, proponents of this doctrine postulated, were predisposed and authorized to strive for their self-preservation, freedom, happiness, and a peaceful coexistence with others. Such predisposition emanated from the universe rather than from history or social convention. Natural law was, therefore, also at the heart of José Félix de Restrepo’s notion that slaves deserved a modicum of respect, and that they possessed the same intrinsic and

basic human dignity as free people. Despite prohibition of this doctrine, many scholars persevered in their explorations, sometimes through litigation, and later through tertulia encounters and other intellectual exchanges.<sup>3</sup>

Some circles thus maintained that the enslavement of others defied the natural order of things, and that the government had a responsibility to ameliorate this situation. As early as 1777, Mompox litigants and slaves heard of an opinion given by Santa Fe magistrates that slavery contradicted “natural law.” Given that natural law theorists accepted slavery as a legitimate relationship of power, these magistrates developed their position by questioning the theory that slaves were former prisoners of war whose lives had been spared in exchange for servitude. In the absence of a Spanish war in Africa, the magistrates implied, masters’ unlimited power over Africans or people of African descent held as slaves was unjustified.<sup>4</sup> Like Restrepo in Popayán but about a decade earlier, the highest magistrate in Mompox even declared that authorities had a political obligation to help slaves.<sup>5</sup> Such declarations must have been noticed by enslaved litigants and even by other slaves and their free kin.

The idea that people were naturally and legitimately inclined to seek a better, more egalitarian world was also tentatively put into practice by a sector of the Mompox elite. Forward-looking patricians conceived new institutions and ways of doing things that (though still within the bounds of hierarchal principles) explicitly sought to bring about a more egalitarian environment. Mompox’s new “economic society,” for example, held all members to be equal regardless of their genealogical, military, or ecclesiastical rank. Two leading members, Ramón del Corral and Juan Antonio Gutiérrez de Piñeres, offered cash prices to peasants who excelled in the cultivation of cotton. One of the richest merchants in town even established a local college that explicitly allowed admission of free people of color.

Young Mompox patricians like Juan del Corral and the brothers Vicente, Gabriel, and Germán Gutiérrez de Piñeres grew up in this environment of judicial struggle, legal argumentation, and social reform. They were also brought up to further Mompox’s cause in its rivalry with non-local officials. The children of newcomers who had achieved wealth and influence in local politics, they came to believe that Mompox’s full potential could only be realized by lifting the

oversight privileges of elites and bureaucrats in Cartagena and Santa Fe. Ranked as a *villa* in the municipal hierarchy, Mompox remained a second-rate town despite its obvious prosperity. It was their natural right, many locals believed, to seek a better future and to achieve political autonomy.<sup>6</sup>

This rivalry would boil over in the wake of the 1810 crisis, galvanizing the rise of a revolutionary government that embraced the doctrines of natural law and legal equality in its founding documents and political goals. These included a radical constitution that called for reforming slavery and ending the slave trade. Behind this transformation was a coalition of the Piñeres brothers, other members of the Mompox and Cartagena intelligentsias, and leaders of African descent. Reminiscent of Ancient Rome's Gracchi brothers, the Piñeres brethren coordinated the most popular and radical wing of this alliance.<sup>7</sup> An observer scornfully recalled that they had "a strong party with the mob, and all who had nothing to lose."<sup>8</sup> A more sympathetic witness remembered Germán as a known "patriot" with a strong influence "over the whole people who respected and listened to him as an oracle."<sup>9</sup>

Led by this vibrant coalition, Cartagena became the first province in the Kingdom to declare absolute independence from Spain. Quickly afterwards, it granted equality before the law to all citizens. Other rich merchants and high patricians in the provincial capital resented the autonomist aspirations of their Mompox counterparts, however, and disliked the egalitarian hopes of their plebeian allies. An "aristocratic" coalition formed in the city of Cartagena that found support among rural dwellers. As in Popayán, the emerging political groupings would clash in civil war. While egalitarian, antislavery aspirations prevailed only in limited ways, this revolution offered radical answers to the 1810 crisis. Above all, it placed legal equality, slavery, and the stigmas of slavery front and center in the political debate. With its late eighteenth-century social, judicial, and intellectual effervescence, Mompox holds some of the keys to better understand this process.

### **It Takes a *Villa***

Over the course of the 1700s, Mompox attracted new migrants seeking fortune in a place known for its easy relationship with contraband

and tax evasion. The fresh arrivals, especially those from Spain, often married well and opened new lines of business. A few obtained substantial land grants, establishing large cattle estates and sugar or cacao haciendas. Some of these new proprietors were also involved in gold mining and sold slaves to miners throughout the western section of the viceroyalty. A few used their landholdings and income to obtain nobility titles – a rare achievement in the New Kingdom.<sup>10</sup> Less interested in land or noble status, later arrivals firmly embedded themselves in the local community through different forms of corporate belonging. Take the case of Ramón del Corral, an immigrant from Galicia and Juan del Corral's father. Though he had a difficult start, by 1769 he had become a member of the *cabildo*. He also obtained the rank of captain of the first fusiliers' company in the "free colored" regiment, thus establishing direct contact with people of enslaved ancestry. By 1806, he had become sergeant major of the urban militias. He also built and operated a pottery and established robust and diverse social connections.<sup>11</sup>

This businessman participated in Mompox's late eighteenth-century economic boom. The town's population grew from around 7,200 people in 1780 to 14,000 at the turn of the new century.<sup>12</sup> Humboldt, who visited in 1801 and met Ramón del Corral, remarked that commerce here was perhaps more robust than in the city of Cartagena. He recalled a "big smuggling" operation with the English colony of Jamaica and the Dutch *entrepôt* of Curaçao. Mompox investors, he also commented, revitalized the gold mines of northeast Antioquia.<sup>13</sup> Foreign and local fabrics, metal and wooden manufactures, gold, silver, wine, wheat, maize, tobacco, sugar cane products, tallow, hides, cattle, pelts, and even beaver hats passed through town; local merchants had customers and suppliers in the Caribbean, Europe, the Kingdom of Quito, and the viceroyalty of Peru.<sup>14</sup>

Like others before him, Ramón del Corral used his connections and the special protection afforded by military status for illegitimate purposes. His main income came from trade, both legal and illegal. He was accused of hiding behind his military privileges to avoid prosecution by ordinary justice. Allegedly, he bribed officials who would have reported on his illicit activities.<sup>15</sup> Despite the accusations, his business thrived. In 1785, Ramón bought six storefronts and a warehouse for 800 pesos. Three years later, surviving business records show that

Ramón owned and operated several *champanes* – large canoes used on the Magdalena River trade, operated by slaves and free men of color. In this riverine operation, his main associate was Juan Antonio Gutiérrez de Piñeres, a successful newcomer from Seville.<sup>16</sup> Their children, who grew up in the 1770s and 1780s, inherited and further developed the social connections as well as the “patriotic” and egalitarian sensibilities first developed by their parents.

Successful migrants often tried to prove their worth and love of the host community by coming up with or supporting projects to improve local conditions. Some discussed social, moral, and economic innovation in tertulias. Others advocated for the creation of *sociedades económicas de amigos del país* (economic societies of friends of the country, often called patriotic societies). Established for the diffusion and application of modern philosophy on behalf of the “State” and for the “common good,” *sociedades* formed throughout Spain after 1774. Far less common in the Spanish Indies, patricians in the New Kingdom nonetheless became familiar with the idea, read the proceedings of Madrid’s *Sociedad*, and drew inspiration from this European model.<sup>17</sup>

Ramón and his associate Juan Antonio actively participated in the formation of Mompox’s *Sociedad Económica* in 1784 – perhaps the first one of its kind in the New World. Their principal goal was to promote efficient “agriculture and commerce” of cotton. Given Europe’s growing demand, they saw cotton as the safest route to bring wealth and happiness to the province’s inhabitants.<sup>18</sup> The *Sociedad*’s early activities garnered praise. For some, it seemed “incredible” that this town, only a villa in the municipal ranking, was teaching people of means in the “the entire Kingdom,” including its capital Santa Fe, how to spend their time in a wise and productive way.<sup>19</sup>

This association’s goals, moreover, included the promotion of a new, relatively critical attitude toward legal inequality, a crucial component of the current political and social order. From the outset, and following Spanish precedent, the *Sociedad* was established with no special jurisdiction or privileges. At their meetings, the associates would take seats on a first-come, first-serve basis rather than hierarchically. Rejecting hierarchy, even in this limited space, was a significant innovation. People were expected to take their seats in church or spots in processions and other gatherings according to rank (often causing intense litigation over precedence). The *Sociedad* remained a gathering

of people of means, yet members set aside corporate privileges, practicing their budding egalitarian sensibility. This extended, moreover, to other aspects of their endeavor. Members planned to invite farmers, rich and poor alike, to get involved in their cotton utopia. Ramón del Corral and his associate offered land for cultivation to humble peasants, free of charge for one year. Corral offered cash prizes for the largest cotton producers but specified that these had to be common farmers, people “personally devoted to the countryside” as opposed to estate owners or administrators.<sup>20</sup> Though obliquely articulated, an important subtext was that commoners had a role to play in the building of future economic prosperity.

As they envisioned a brighter future for Mompox, some patrician families resented that their young men had to travel far away for advanced studies. Vicente and Germán Gutiérrez de Piñeres, for example, studied in Santa Fe, where they graduated as doctors in canon law in 1790 and 1793 respectively. Those who would not travel to the viceregal court for schooling had to apply themselves to informal schooling at home. Following his early education in Latin, Juan del Corral engaged in a self-teaching program, learning to read French, English, and Italian (he too would follow the doctrines of Filangieri and other Neapolitan authors). The young Corral also taught himself some geography, political economy, agriculture, and military theory – a modern philosophy-inspired curriculum now prohibited in the colleges of the Kingdom.<sup>21</sup>

Daringly, Mompox’s most advanced leaders embarked on a project to establish the systematic teaching of modern philosophy in their *villa*. They wanted their offspring to officially learn the kind of practical lessons that Restrepo had helped to keep alive in Popayán despite the prohibitions. To facilitate this project, Pedro Martínez de Pinillos, a migrant from Old Castile with considerable wealth and no children, decidedly championed the cause of a college for Mompox. He set aside an impressive 176,500 pesos to fund the “Colegio y Universidad de San Pedro.”<sup>22</sup> Decidedly practical, the three-year school cycle designed for San Pedro aimed at giving students the skills to lead society toward wealth and happiness. According to the 1806 curriculum, professors should spend less time in perfecting their pupil’s Latin, altogether dropping syllogism and scholastics, and concentrate instead on advanced mathematics, geometry, physics, chemistry, meteorology,

botany, zoology, and even commercial accounting and bookkeeping. The true “philosopher” should be able to discuss and practice basic agriculture, crafts, and trade. The Neapolitan Antonio Genovesi’s *Lezioni di commercio* was mandatory reading. The College aspired to support student’s travels to Madrid, Paris, and London, and the travelers, according to the plan, would bring back books, scientific instruments, and new lessons to teach.<sup>23</sup>

More strikingly, an egalitarian tinge also characterized the college founders’ plans. Pinillos was known for treating with “notable humanity” all “humble people.” Even his slaves, a local priest reported, were looked upon by Pinillos with the “warmth of children,” an attitude he promoted among his relatives.<sup>24</sup> If the priest exaggerated Pinillos’ open-mindedness, the college’s “Constitutions” nonetheless reveal that the founder and his associates aspired to look passed the stigmas of slavery. Existing regulations excluded the descendants of slaves from college education, a privilege only granted to criollos and peninsulares able to prove their *limpieza de sangre* and *hidalguía* (purity of blood and gentry, old Christian background). At San Pedro, however, the plan was to offer admission to some “negros” and “esclavos.” “We are not to be too scrupulous,” the Constitutions stated, “on hidalguías and limipeza.”<sup>25</sup> At least on paper, the founders admitted that people of enslaved ancestry also deserved a modicum of respect and opportunity, and a release from the burdens of segregation. The college began operations around 1808, but whether people of color enrolled remains unknown.

Other members of the local elite likewise espoused somewhat egalitarian attitudes. The priest Juan Fernández de Sotomayor, a native of the provincial capital, became parish rector of Mompox in 1803. With impeccable genealogical and academic credentials, he also held the post of adviser to Cartagena’s Tribunal of the Inquisition. He believed that common folk had to be catechized in Spanish and patiently brought toward Christian virtue. Ordained only in early 1801, Sotomayor immediately went to work with the Indians of Tubará, north of Cartagena, where he experimented with a less rigid approach to preaching. On Sundays, before the Latin mass that would have been beyond the grasp of most parishioners, he explained doctrine “in a clear and intelligible voice for everybody with no distinction of person.” He claimed to have replicated this tactic in Mompox, plainly

teaching doctrine to parishioners in Spanish and avoiding segregation of the laity by gender.<sup>26</sup>

These forming egalitarian attitudes among members of Mompox's elite had sharp limitations and ambivalences. The college founders, for example, continued to uphold old stereotypes, believing stock accusations against slaves and former slaves: the Constitutions indicated that, if possible, slaves and freed people should not be hired by the institution. Their service was very "risky," the document stated as a matter of fact, because of their "infidelity" and their "communicable ailments." Still, the Constitutions tangentially criticized slaveholding. People served by slaves, the authors believed, became accustomed to harshly treating not just their human property but other individuals too. The slave trade had caused this failure in character among criollos, and greater evils were to be expected from the curse of slavery. The document mentioned "conspiracies" in the Carolinas, Jamaica, Cartagena, and, above all, the "horrendous catastrophe" of Saint-Domingue as examples of how far slaves were willing to go to break their chains.<sup>27</sup>

Although many forward-looking people continued to obfuscate the emancipation expectations of many slaves, critics of slavery spoke their minds with unusual emphasis in Mompox. They articulated critical perspectives on human bondage, sometimes going beyond the typical arguments occasionally used to legally defend slaves against abuse. Some magistrates built on the particulars of each case to point to the iniquities of Mompox slaveholders and the unacceptable injustice of slavery in general, while others expressed the idea that "nature" could not permit the enslavement of humans under any circumstances. The notion that a natural, equal order trumped the artificial, unequal legal order of society underpinned the antislavery positions emerging in the judicial forum.

### Tribunes of the Plebs

Understandings of natural law as a source of individual rights with universal validity converged with the concept of nature as a guiding force. Besides describing slavery as the "vilest and most contemptible thing that can exist among men," for example, the *Siete Partidas* stated that slavery had been instituted "contrary to natural reason."



According to “nature,” the medieval code read, no “distinction” exists between free and slave, with all people naturally loving and desiring freedom. Understood as an inherent guiding force steering humanity toward good, nature in the Catholic world traditionally appeared inseparable from the will of God. The idea that bondage (like grave sins) was an offense to nature had crucial religious implications. Further, this was a compelling proposition when the enslaved people under consideration were Christians.<sup>28</sup>

Relegated to an unnatural status, slaves appeared in written laws as people inclined to change their fate by preventing abuse from masters or even reverting to their natural state of freedom. As Christian people living in a wretched condition, slaves in the Spanish monarchy enjoyed, in theory, some protection by the law and the magistrates. The *Partidas* called for masters not to “kill or wound” slaves, and slaves in turn could “complain to the judge” if their masters treated them with excessive cruelty. Magistrates were encouraged to pay attention to these cases. They could even remove cruelly treated slaves from the authority of their owners and sell them to a different master. Spanish lawgivers restated these and similar commands over the centuries. Rarely, however, did jurists go out of their way to denounce cruel masters or to emancipate slaves.<sup>29</sup> Unnatural in theory, slavery was in practice seen and perpetuated as a normal situation.

Slaves themselves had to initiate legal action against cruel masters or file petitions for their own freedom, though they seldom found opportunity to do so. Although people could bring complaints before local authorities orally (who sometimes solved issues over spoken, legally binding exchanges), the preferred and most common form of jump-starting legal proceedings remained a written petition.<sup>30</sup> Very few slaves were literate, however. Some literate slaves used their skills to advance their individual causes.<sup>31</sup> Collective petitions, as we have seen in the cases of Antioquia and Popayán, were almost impossible to file. Slaves who could not write and had no access to ink and paper sometimes hired the services of lawyers, notaries, and *papelistas*. These judicial practitioners wrote letters and petitions according to legal standards and brought them before the appropriate authorities. *Papelistas* usually took small cases or restricted their work to writing up petitions. Functioning as poor people’s jurists, these legal agents abounded throughout the Spanish-speaking world.<sup>32</sup> Those who hired

papelistas usually lived in urban centers, but in rural areas it remained quite difficult to bring any verbal, let alone written complaints before the magistrates.<sup>33</sup>

However, some jurists in Mompox and at the Santa Fe tribunals stood up for slaves during litigation, taking the role of tribunes of the plebs. Slaves in Mompox must have taken note of jurists who believed masters should not enjoy unlimited power over the enslaved. Some magistrates even insisted that judges should always decide cases “in favor of freedom.” Others thought that slavery should eventually disappear altogether. Many of these opinions were expressed as early as the 1770s, usually as variations on more general themes of jurisprudence. Such themes included whether judges should make decisions applying the written laws alone instead of relying on opinions by glossators and commentators, and whether the realm of nature in the end trumped all stipulations found in the written laws.

The lawyer José Ignacio de San Miguel, the highest magistrate in Mompox, believed that “all laws conspire” to protect slaves, those “wretches” with their “freedom lost.” Even though legal codes protected slaves, San Miguel complained in 1777 that masters in Mompox treated them “with little humanity,” providing them with scant food. He even tried to determine how much food slaves should receive every day to comply with “the laws of humanity and good government.” Like Restrepo in Popayán, but about a decade earlier, San Miguel expressed the notion that magistrates had a basic obligation to better the lot of the enslaved, and that this would reflect well on the body politic. Moreover, San Miguel, possibly a slaveowner himself, believed that mistreated slaves were entitled to request a change of master, though he knew that many “judicious jurists” argued that this privilege did not exist.<sup>34</sup> As a magistrate appointed from Santa Fe, San Miguel might have used his jurisdiction to harass local slaveholders who opposed his authority by helping their slaves. It is likely that whatever he said or wrote over the course of litigation caught the attention of expectant slaves and papelistas.

When Gregorio José Cevallos, an enslaved master potter at José Antonio de Bros y Arango’s brickworks, filed a complaint against his owner, San Miguel gave the master three days to provide him with papel. Cevallos complained that his master imposed too much work on him, providing him with little food and clothing. Moreover, the

master was allegedly cruel and beat his slaves for the slightest of mistakes, though this was a charge that remained difficult to prove. San Miguel's authorization for Cevallos to search for a new master in effect forced Bros y Arango to sell his property. Compelled to sell his most skilled slave, the master appealed to the Real Audiencia in Santa Fe.<sup>35</sup>

Pablo Sarmiento, Arango's proxy in Santa Fe, argued that compelling a master to sell his slave had no legal basis. Sarmiento stated that this issue had been carefully examined by a famous judge from the Real Audiencia in Lima. Although not mentioned by name, we can establish that Sarmiento was referring to Pedro Bravo de Lagunas y Castilla, whose famous legal opinions circulated both in print and handwritten copies.<sup>36</sup> In a 1746 disquisition, Bravo de Lagunas argued that ordering masters to sell their property contravened the law. Such a compulsion, the Lima magistrate insisted, could only take place when masters prostituted or otherwise cruelly treated slaves, as stated in the *Partidas*. Bravo de Lagunas, moreover, asserted that masters should not be compelled to sell their slaves simply "in favor of freedom," as glossators and commentators argued – and as jurists such as San Miguel and Restrepo later proposed. Only when masters willed their slaves to be sold or emancipated could their value be paid, and manumission achieved. This was what existing law mandated according to Bravo de Lagunas and his followers. They proposed that judges should make their decisions adhering to nothing but the written law.<sup>37</sup> In their opinion, nature and custom, which slaves and their legal aides also cited as sources of law, had no role to play in adjudication. But the legal forum was open to divergent interpretations.

With the aid of a lawyer or *papelista* and with the confidence of the initial positive ruling by the highest magistrate in town, Cevallos skillfully turned to a more favorable interpretation involving the idea of custom as a source of law. Besides the written laws, slave litigants also took custom to be an important measure of obligations and privileges. Understood as a remembered or current practice, the concept of custom in this case recalled unwritten pacts and reciprocal understandings between masters and slaves. Such transactions could be construed as formally binding commitments.<sup>38</sup> The people of La Honda raised a similar point, maintaining that their former master's oral promises must have legal consequences (though they also knew his promise

had been written into his last will and testament). In his allegations, Cevallos argued that it was a “custom” for masters to pay slaves when they were sent to work on holidays. However, his master had failed to do so. According to custom, Cevallos also claimed, slaves sent to gather firewood could distribute the task between two individuals, one who did the cutting and one who carried the fuel to the brickworks. Despite this arrangement and Cevallos’ old age (he said he was sixty), his master required him to perform both tasks at once.<sup>39</sup>

José Antonio Maldonado, *procurador* for the poor, took up the cause of Cevallos in Santa Fe, making a broader argument about slavery and natural law. Maldonado had no formal legal training but litigated this case under the supervision of the lawyer Francisco González Manrique, a modern philosophy sympathizer whose wife Manuela Sanz de Santa María hosted the famous Buen Gusto tertulia in Santa Fe. According to Maldonado and González, adding insult to the injury of slavery by cruelly treating slaves contravened “natural law.” Taking steps to help slaves was thus important, particularly in “Christian republics” where religion fostered “confraternity.” These brotherly polities, they claimed, tolerated slavery but without the rigors proper to slavery “induced by the law of war.” Magistrates, therefore, had to prevent anything that inhumanly affronted a slave’s body and his “nature” as a “rational individual,” including food deprivation and overwork. In this way, Maldonado and González rejected the idea that slaves were originally war captives whose lives had been pardoned on the condition that they remain in their victor’s captivity. By rejecting this premise, they also rejected the idea that slaves should be treated as domestic enemies. After all, no Spanish war in Africa had led to the enslavement of people like Cevallos.<sup>40</sup>

Maldonado and González’s oblique rejection of the law of war as the crucial source of the right to own persons relied on a specific understanding of slavery in light of natural law. As college students and jurists began to study natural law in the mid-1770s, Pufendorf’s doctrines gained prominence in the New Kingdom. Pufendorf, alongside other natural law theorists of the seventeenth century, admitted that a victor could either kill the vanquished or enslave them. Historically speaking, however, Pufendorf viewed the law of war as only a secondary source of slavery. War did not create slavery; it only multiplied slaves, but it did so contractually, since prisoners of war

had their lives pardoned only after they agreed to live under the dominium of their victors who became their masters. Nevertheless, the masters had no absolute power over the slaves because their natural right to kill a person in self-defense ceased to exist once the opponent was defeated, disarmed, and rendered incapable of causing harm. Because helpless prisoners-turned-slaves were also humans, moreover, “natural equality” forbade that they be treated like beasts or objects. Masters had to properly feed and clothe them.<sup>41</sup>

For Maldonado, González, and other jurists such as Restrepo, every discussion of natural law implied a wider set of principles. They believed in certain natural drives and rights, common to all human-kind and inherent to the universe rather than the product of history, custom or social convention. These included the drive for self-preservation, the imperative not to harm others, the urge to live in peaceful society, and the inclination to freedom and love of liberty. Some magistrates thus imagined people in an abstract, out-of-society state in which all individuals shared the same essence and standing granted by nature that made everybody equal.<sup>42</sup> Mompox’s cultural elites held similar ideas. Around the time San Pedro College began operations, philosophy professor José María Gutiérrez de Caviedes told his students that the “Laws of nature” had gifted humans with a propensity to discernment and enlightenment. He had likely read Filangieri’s detailed plan for public education, which called for future magistrates and soldiers to study the principles of natural law in their fifth year of schooling.<sup>43</sup>

For some magistrates versed in the critical scrutiny of the natural law doctrine, these principles could be expanded into a wholesale rejection of slavery. Building on natural law and the equal standing of Christians, some advanced the proposition that slavery was entirely unjustifiable, even if sanctioned by written legislation. They favored the cause of slave emancipation and, furthermore, the total abolition of slavery. In their view, this was an unnatural institution, founded on the power of some humans over others rather than an expression of the divine order of the universe. They thus agreed with Montesquieu and Filangieri, who critically assessed seventeenth-century theories on slavery like Pufendorf’s. For Montesquieu, slavery and the law were mutually exclusive because slaves occupied an unnatural, extra-social status that violated the right to self-preservation and the right to do

anything allowed by the laws. For Filangieri, in turn, slavery was an abomination because it violated the universal rights equally granted by nature to all individuals.<sup>44</sup>

In Mompo, Melchor Sáenz de Ortíz articulated an outright condemnation of slavery, suggesting that it should disappear altogether. In 1804, as procurador for María Magdalena Soto, a slave, he quoted from José Marcos Gutiérrez. A Spanish jurist with a bent for natural law, Gutiérrez argued that it would be easy to prove that no one was a slave “except in the legal codes, and in the [in]humanity and insensibility of other free men.”<sup>45</sup> On his annotations to a popular handbook for notaries, Gutiérrez further remarked that nature itself rejected the wrong of slavery. Sáenz shared Gutiérrez’s wish to “see the vile and shameful words serf, serfdom, slave, slavery banished from legal codes.”<sup>46</sup> A few years later, Antonio de Villavicencio, who may have read Gutiérrez and who shared his plan to reform slavery with Restrepo, expressed a similarly worded desire. In his view, the government had to destroy “even the very name of slavery.”<sup>47</sup> Like Montesquieu, they maintained that there was no room for slavery in civil society and that slaves existed only beyond the law; and like Filangieri, they believed lawgivers had to actively work for the dismantling of slavery.

While some magistrates aired their hopes for the abolition of slavery during litigation, slaves’ struggles against abuse remained challenging, and their aspiration to freedom difficult to articulate and even harder to realize.<sup>48</sup> Masters, overseers, inheritors, creditors, and officials with an interest in maintaining slavery often resorted to violence and intimidation to achieve their goal – especially when they knew a slave had legally sound arguments against them. This was demonstrated in the case of La Honda, south of Mompo, where, as we have already seen, in 1802 and early 1803 the master’s heirs, with the help of officials, waged war against the inhabitants of the hacienda and ultimately re-enslaved many of them. The former slaves knew, as did their opponents, that their late master had provided for their emancipation in his last will and testament, but even in such cases, the prospect of freedom remained elusive. Still, the hope of legal recognition of their emancipation and formal sub-municipal incorporation was kept alive almost to the end.<sup>49</sup>

Despite the continuing difficulties for slaves, Mompo’s early political innovation, natural law speculations and egalitarian impulses

would later be expanded into more radical endeavors with the coming of revolution. Although the provincial capital became the epicenter of revolutionary activity, crucial political operatives emerged from Mompox. They led Cartagena to experiment with a new form of government that promoted equality before the law and promised to undermine slavery by facilitating manumission. The Piñeres brothers, supported by people of color from Mompox and Cartagena, became outspoken defenders of autonomy for their villa, independence from Spain, and the end of the stigmas and restrictions associated with enslaved ancestry. Such goals, they would declare in a written constitution, were not only just but natural.

### The Revolution of Cartagena

Vicente, Germán, and Gabriel Gutiérrez de Piñeres grew up hearing that a better, more prosperous, maybe even egalitarian world was possible. Their father and his friends believed it, and people like the philanthropist Pinillos and the priest Sotomayor worked to make this ideal a reality. Some Mompox leaders and magistrates believed that slaves and their descendants could aspire to a future without discrimination and free of bondage. These critical aspirations undermined the tenet of legal inequality as an immovable principle. They also questioned the conviction that the economic and social health of the realm hinged on the continuation of slavery. Expectations of change in Mompox also included the hope that this prosperous town would ascend from villa to the lustrous and more independent rank of *ciudad*, thus enjoying the formal autonomy and the prestige required to further other aspirations.

Local elites achieved some autonomy, keeping at bay provincial and viceregal administrators seeking to place Mompox under close fiscal and political oversight. The most distinguished patrician families controlled legal trade and got away with constant and robust illegal commerce, they kept a firm grip on the *cabildo*, exercised influence over the surrounding rural districts, and largely controlled a royal treasury branch with an annual revenue of more than 100,000 pesos. Further, they achieved astounding leeway for the operations of their San Pedro College.<sup>50</sup> Mompox's achievements, its hope to ascend in the municipal hierarchy, and its reputation as a contraband heaven did not sit well with high bureaucrats in the viceregal capital.

Political tensions between Mompox and Santa Fe increased in late 1808. Between November 20 and 22 the Magdalena broke over its banks, dramatically flooding the town. Movable property was swept away, and the foundations of many buildings were undermined. Because the cabildo had collected taxes for the construction of a levy, the viceroy quickly asserted that failure to complete the project proved negligence and possibly fraud on the part of local aldermen. He seized the opportunity, sending an assertive engineer (with a military rank by definition) to oversee construction of the levy. This engineer was also meant to keep an eye on the locals, who were now deemed to be intent on taking advantage of the ambiguous situation created by Napoleon's invasion of Spain earlier that year. The engineer sided with the hypothesis that the viceroy and all other representatives of the king should remain in their posts, and he was promoted to royal treasury sub-delegate for Mompox in August 1809. Afraid that this official would charge local merchants for smuggling, members of the cabildo opposed the promotion. They saw the move as a ploy to prevent them from making any further assertion of autonomy, or to answer to the growing crisis on their own terms. They accused the officer of treating local inhabitants "like slaves."<sup>51</sup>

Despite the opposition, the engineer stayed in town and continued to report to the viceroy, insisting that the Piñeres clan stood on the brink of revolutionary action. As soon as they heard of the deposition of the Quito authorities, he informed his boss, cabildo members had begun to conspire to set up their own independent government in Mompox. A few months later he further reported that the Piñeres brothers were spreading news about the collapse of the Spanish military before the French invaders, telling people that the viceroy and the governor of Cartagena were in cahoots with Napoleon. Unless deposed, the Piñereses allegedly implied, those officials would deliver their jurisdictions to the French just to keep their offices and salaries.<sup>52</sup>

The engineer's estimation of the situation might not have been altogether exaggerated. Anxiety for political change was widespread. With his reported harsh treatment of locals, the engineer also elicited pushback from free people of color in town. As rumors swirled in Santa Fe that the viceroy himself might be a partisan of Napoleon, the engineer prepared to travel to the viceregal court to support the high authorities there, but before his planned departure, the townsfolk



came out to demonstrate their discontent with the official. Led by Estanislao Barón, and likely in concert with Vicente Gutiérrez de Piñeres, a crowd of women, former slaves, and other people of humble background stormed the engineer's house on June 25, 1810. This crowd action forced him to flee. En route to Santa Fe, he learned that yet another crowd of humble folk had helped depose high authorities in the capital on July 20.<sup>53</sup> The coup against the viceregal court, we must remember, had taken place after the deposition of the governor of Cartagena, which deprived the viceroy of his authority over the strongest military garrison on the land.

Anxious for greater autonomy from Madrid and Santa Fe, leading merchants in the city of Cartagena had formed a coalition led by the rich patrician José María García de Toledo. Toledo's group gradually took over provincial administrative business. The Spanish governor did not hesitate to call these developments a "revolution," and Toledo and his allies finally deposed the official on June 14, 1810. Also known as *toledistas*, this faction was now at the head of a new local junta in Cartagena, laying claim to jurisdiction over the entire province. Toledistas espoused a home rule approach, hoping to maintain allegiance to the Regency Council, keep their social and political privileges as people of Spanish descent, obtain authorization for free trade with foreign powers, and continue to receive an annual subsidy for military defense purposes – hundreds of thousands of pesos largely pocketed by merchants who sold goods to soldiers and craftsmen on the king's payroll.<sup>54</sup>

To back up his legal and political maneuvers against the governor, Toledo turned to commoners and their leaders for support. Pedro Romero, a highly skilled master blacksmith working for the royal navy post and reputed to be of African ancestry, staged a mutiny against the governor with the help of his artisan allies and poor city dwellers. Moreover, on June 19, 1810, Toledo presided over the organization of these commoners into an armed force known as the Patriotic Volunteers, with Romero taking the rank of colonel.<sup>55</sup> Romero and others understood that Toledo and his "aristocratic" allies cared little about equality for people of color, however. The Piñereses, on the other hand, had a different reputation. An unsympathetic observer would later scorn Gabriel as someone who "everywhere preaches absolute equality...always seen surrounded by blacks and mulatos who had no education, and he desired the rest of

citizens to do the same, under the penalty of being deemed aristocrats.”<sup>56</sup> Scores of commoners would soon abandon the toledistas to join the so-called *piñeristas*.

The Piñeres clan already had an important presence in the provincial capital. Germán and Gabriel became official residents of the city, while Vicente remained in Mompox (where he joined the San Pedro faculty).<sup>57</sup> The Cartagena contingent courted assertive artisan leaders and militiamen of African descent who hoped to remove, even if on a case-by-case basis, the legal limitations preventing free men of color from holding royal posts or joining colleges, the legal professions, and the priesthood. Friendly to the proposition that an egalitarian society was possible, the brothers seemed ideal allies for those seeking to do away with the stigma of enslaved ancestry. The growing crisis would solidify this alliance.<sup>58</sup>

In Mompox, most people celebrated the fall of the governor and the deposition of the viceroy, though they seemed less excited about the toledistas' aspirations to uphold allegiance to Spain and claim authority over Mompox. By mid-August, the Piñerereses, other radical patriots, and their commoner allies publicly declared that, with the viceroy's deposition, Mompox too had become free to choose its own government. Gutiérrez de Caviedes, teacher of the doctrines of natural law at San Pedro and a former participant in Santa Fe's Buen Gusto tertulia, publicly claimed that the people of Mompox had to recognize that “we are no longer slaves, we are free.” With the fall of the viceroy and Audience judges in Santa Fe, he believed, sovereignty had reverted to the people, and the links with the Regency had been dissolved. Mompox, he insisted, had “no other sovereign than itself,” for all men had received from “nature” a holy patrimony of rights, including natural freedom and “sacred equality.”<sup>59</sup>

Mompox radicals broke away from the provincial capital and declared independence from the Regency (though not from the deposed king). They set up a junta in October 1810. Presided by Vicente Gutiérrez de Piñeres, the new government had the support of popular leaders like José Luís Muñoz, Luis Galván, José de los Santos Iglesias, and the carpenter José María Vides, all free men of color. They approved seceding from the province of Cartagena but formally upholding allegiance to the imprisoned monarch. This bold step elicited a strong response from the toledistas, who aspired to control

Mompox's important location and resources, and disliked the egalitarian, pro-independence leanings of their rivals. Toledo sent troops to occupy the town. After three days of fighting, the defenders of Mompox evacuated on January 23, 1811. The toledistas dissolved the junta, expatriated its members, and confiscated their properties. Vicente fled and some of his associates were thrown in jail.<sup>60</sup>

The aggression against Mompox and developments in Spain radicalized piñerista sympathizers led by Gabriel, who remained free in the provincial capital. The Spanish Cortes, a reforming Spanish parliament that had finally convened, decreed that no person of African ancestry was worthy of Spanish citizenship or the right to vote. News of this arrived in late August, further galvanizing pro-independence sentiments. The Cortes, moreover, denied political equality to Spain's overseas territories, making it more difficult for Spanish families of high social standing to defend the old order. These families thought of themselves and their jurisdictions as integral members of the monarchy. Now, however, they were denied equal political standing with their peninsular brethren, and their provinces and kingdoms were treated as colonies. With a growing number of allies, the piñerista coalition now openly supported absolute independence from Spain. Pedro Romero, Gabriel Gutiérrez de Piñeres, and hundreds of commoners from the city pressed for full independence and full equality before the law. The popular demands would be met over the following months.<sup>61</sup>

On November 11, 1811, the re-grouped radicals staged a crowd action against the Toledo government and declared independence from Spain. After marching on the governor's palace where the Cartagena junta was in session, the piñeristas successfully forced the government to declare Cartagena, by right and in fact, a "free State, sovereign and independent."<sup>62</sup> Toledo and his allies ended the military occupation of Mompox and set the prisoners free. In January 1812, the revolutionaries formed a constitutional Convention for their new country, the State of Cartagena. Mompox's influence was palpable in the Convention: the prefect was Remigio Márquez, a man of color from the villa; the Mompox curate Fernández de Sotomayor and the three brothers Piñeres were members of the Convention; the main drafter of the constitution project, Father Manuel Benito Rebollo, had also exercised his priestly duties in Mompox. Pedro Romero was also one of the leading members. To give better shape and lasting meaning to their convictions, these revolutionaries designed a new

legal framework for their independent polity, drawing on natural law generally and on specific considerations by Montesquieu, Filangieri, and the US federal and state constitutions.<sup>63</sup>

On June 14, 1812, the Convention completed an egalitarian constitution for the State of Cartagena. The old province was now a “representative republic” with division of powers which recognized no corporate, inherited, or aristocratic privileges. The idea of “legal equality,” the constitution stated, was “right, just and natural.” All free male adults would now be equal before the law.<sup>64</sup> The odious distinctions between Spaniards and people of color should now disappear. A few days before approval of the constitution, the local revolutionary gazette announced that the treatment of “don,” traditionally the prerogative of the high patricians, would be extinguished. All free inhabitants would enjoy the treatment of “citizen.” The “titles, and badges proceeding from the abolished government of Spain, mean nothing in the estimation of the government of this State.” The radical Gabriel Gutiérrez de Piñeres was elected vice-president of the State and president of the senate. Mauricio Romero (Pedro’s son), recently barred from attending college in Santa Fe because of his African ancestry, now became a member of the new legislature.<sup>65</sup>

This promise of equality did not, however, automatically gain the trust of all people of color. Free individuals of African or mixed descent were subject to deep-seated prejudices. They had slave ancestors, slave relatives and made a living from mechanical occupations, and therefore, in the eyes of many, they bore the stigma of presumed illegitimacy, bodily pollution, and reprobable conduct. But different people reacted to the challenges of prejudice and discrimination in different ways. People made their political choices in answer to, not as a logical consequence of their genealogical backgrounds. Better-off craftsmen from the city worked to overcome the consequences of their stigmatized history. Before the revolution, Romero and other up and coming artisans lobbied officials to have some legal restrictions lifted for their children. They would later support the principle of equality before the law.<sup>66</sup> Poor rural dwellers seemed less persuaded by the idea of legal equality, however. Peasants and other rural workers of mixed African and Indigenous ancestry in the Sinú and Tolú river plains (see Map 4), for example, revolted against the new Cartagena government in September 1812. Though moral prejudices and legal restrictions also limited their life choices, scores of rural folks joined Toledo in a

dramatic counter-revolution. Their mobilization was stopped by force and at the cost of yet more blood.<sup>67</sup>

Still, radical political leaders in Cartagena publicized their conviction that people of African descent had equal, if not greater, merit. They even described people of color as the exact opposite of cruel Europeans, who were responsible for all manner of crimes throughout the world. The Spanish Constitution of 1812 sanctioned by the Cortes, an article in the local gazette insisted, excluded men of color from political representation, giving them the useless label of “españoles” and imposing on them fiscal, military, and civic obligations while preventing them from becoming full “ciudadanos.” The prejudices against African origin undergirding this exclusion appeared ridiculous considering the history of Spain itself: because “the Arabs owned the country for eight hundred years, there is barely anyone who can boast of not having something of African origin.” In Cartagena, the article recalled, no difference was recognized to exist between “pardos” (men of color) and those who descended from the European nations.<sup>68</sup>

Even people who would have fallen under the nebulous category of French blacks (accused of conspiring to destroy the city and liberate the slaves back in 1799), were now admissible for political belonging in the new State. Between 1813 and 1815, the State of Cartagena enacted a robust privateering policy to attack Spanish shipping in the Caribbean, undermining Spanish power while securing a desperately needed source of income. Most sailors manning the ships outfitted as Cartagena privateers were former slaves and free people of color from places like Saint-Domingue and Guadeloupe. Hoping that their maritime warfare would adhere to international law, Cartagena’s leaders allowed these and other foreigners to obtain naturalization letters, officially recognizing them as citizens of the State.<sup>69</sup>

Alongside these emerging spaces of political belonging for some people of African ancestry, Cartagena espoused a tacit critique of slavery and the slave trade. Unlike leaders in Popayán, Cartagenan revolutionaries directly answered to the expectations of those who anticipated the end of slavery. The Constitution outlawed the slave trade to the State. It stipulated that authorities had to guarantee masters would not treat slaves with excessive cruelty. But Toledo (who owned around fifty slaves) and other slaveholders with positions in the Convention managed to fend off attacks on their right to own

other human beings. Indeed, the Constitution stated that no official would “emancipate slaves without the consent of their masters, or with no compensation for their value.” Nevertheless, the Constitution called for the legislative power to consider a manumission project. Referred to as a “manumission fund” in the document, we may surmise that the project required the State to collect taxes to pay for the liberation of individual slaves.<sup>70</sup> But almost no evidence about this project seems to have survived, and it is unlikely that it was ever even partially enacted.

In the end, Cartagena revolutionaries did little on behalf of mistreated slaves or to end the slave trade and promote slave emancipation. Continuing factional struggle and the threat of pro-Regency invasion from Panama or the province of Santa Marta to the north led to the virtual suspension of several constitutional guarantees. Further, there is sufficient evidence to suggest that slaves introduced from overseas by Cartagena privateers continued to be traded in the local slave market, and that this happened with the blessing of the State’s tribunals and notaries. Some of the many foreigners coming to newly independent Cartagena participated in these transactions, including people from the French Caribbean and the English-speaking world. Santiago Capurro, from Genoa, also sold slaves on behalf of a local priest.<sup>71</sup>

And yet the radical patrician-plebeian coalition from Mompox and Cartagena propelled antislavery sentiments and the idea of legal equality to a new stage of politics. As they put into practice the doctrine of natural law, the plight of the enslaved and their free relatives became a matter of State, an issue to be taken up by the government, as Restrepo had theorized. The old prejudices against slaves or individuals with enslaved African ancestry remained widespread, and not all free people of color supported the new doctrines, but some of them came to play crucial roles in the revolution. As they participated in the construction of the new State of Cartagena, they built their antislavery and egalitarian positions into the emerging independent, constitutional order. Though only in theory, republican Cartagenans stood for ending domestic slavery as consubstantial with the ending of political enslavement by Spain. Slave emancipation was formally bound up with emancipation from the metropole and the restitution of the natural and sacred rights of individuals.

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An alliance that included free people of color at the leadership and rank and file levels led revolutionary Cartagena to declare independence and ratify an egalitarian constitution. These Cartagena leaders also proposed that a republican government devoted to equality before the law and independence from Spain should question the yoke tying the slaves to the masters in perpetuity. Slavery, and the stigmas of African, enslaved ancestry, were nothing but the unjust, unnatural legacies of Spain, and were comparable to the illegitimate power exercised by Spanish officials over the province of Cartagena.

The intellectual background of these propositions can be partially traced in litigation and politics in Mompo. In the judicial forum and over the course of social reform projects, Mompo magistrates, litigants, and local leaders had long debated the potential social consequences of natural law and egalitarian convictions. This included critical assessments of the relationships between masters and slaves, criollos and free people of color, priests and their parishioners, villas and cities. Many took up the doctrine that despite the hierarchical, unequal nature of these relationships, all humans shared an equal standing, independent from legal and social differences. They developed the conviction that all people were endowed with equal potential and equal rights. Some believed that this natural equality extended to the slaves, who also had natural aspirations to liberty, prosperity, and happiness. A magistrate even spoke of ending bondage, annihilating the very term “slavery,” an odious, undesirable, unnatural condition.

With the outbreak of civil war and revolution, the possible implications and applications of these propositions became even more imperative. If Spain could be identified as a cruel mistress, and the king’s ministers accused of treating vassals like slaves, domestic slaveholding had to be critically assessed as well. Cartagena revolutionaries outlawed the slave trade, declared legal equality for former slaves and their offspring, and anticipated that their now independent State would take steps to begin to manumit slaves with public funds. Nevertheless, independent Cartagena did little to translate these legal achievements into meaningful social change. Slavery and the slave trade continued. Still, a set of doctrines that litigants had typically applied on a case-by-case basis became overarching legal principles with the potential to encompass an entire polity, particularly a newly liberated country.

This emerging conceptual link between antislavery and independence took different forms and was built on different experiences through this period of atomized, provincial revolutions. Slaves in Popayán argued that the breaking of the chains imposed by Spain on their masters should be extended to their own situation, but circumstances there delayed the formation of a revolutionary government. The powerful slaveholding elite would prove committed to keeping slavery for years to come. In Antioquia, as we shall see, slaves would legally and forcefully request that the newly formed government revisit its founding doctrines of liberty, thereby seeking to extend freedom to the enslaved.

With all its shortcomings, revolutionary Cartagena did embrace the idea (shared by Félix José de Restrepo, Antonio de Villavicencio and others) that any prudent legislator and every forward-looking government should favor the cause of the slaves. Though Juan del Corral, who was also steeped in Mompox's reformist environment, soon joined forces with Restrepo to legislate in favor of slaves in Antioquia, they would do so only under pressure from expectant and collectively organized slaves. Antioquia's "free womb" anti-slavery legislation, an act of legal reform deemed worthy of a free polity, would lift the obstacles on the way to freedom for all slaves in a limited form.