

FREEDOM'S EDGE: ENSLAVED PEOPLE, MANUMISSION, AND THE LAW IN THE
EIGHTEENTH-CENTURY SOUTH ATLANTIC WORLD

BY

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DISSERTATION

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ABSTRACT

“Freedom’s Edge” explores how enslaved people in the South Atlantic world engaged with the law to achieve their manumission, or legal freedom. Drawing on freedom letters, petitions, legal suits, and other kinds of evidence from the eighteenth century, my analysis focuses on enslaved peoples’ social experience within the law as well as the judicial knowledge they acquired in the process of litigating for their manumission. It engages with both long-standing debates in the history of slavery concerning the patterns and meanings of manumission in the Americas, as well as recent advancements within the field of Afro-Latin America surrounding enslaved peoples’ legal consciousness during the early modern period. Its major methodological contribution is to shift our analytical approach away from a search for “voices” to a deeper exploration of what individual actions and decisions among the enslaved tell us about how they understood and responded to their world. I make two arguments. First, by looking more closely at the processes by which enslaved people became freed legal subjects, we gain deeper insights into the limits of freedom and how the enslaved confronted those limits. Second, I argue that individual legal actions throughout the South Atlantic collectively shaped the law. Enslaved people widened interpretations of law, enforced customs, and defined what constituted fair treatment from their slave owners. Through their legal actions, they made mistreatment into the basis for claims to freedom. Enslaved people also shaped the law and its interpretation by bringing their freedom struggles into the heart of the empire. Servants, sailors, and runaways journeyed from Brazil to Portugal hoping to gain their freedom. Others sent direct appeals from Brazil across the Atlantic to Portuguese monarchs. I bring together stories of the enslaved, the newly freed, the conditionally freed, exiles, and fugitives into one analytical frame, offering new perspectives on power and the always-contested meanings of freedom during colonial slavery.

In Memory of Joan G. Staniswalis

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ABBREVIATIONS

AHU – Arquivo Histórico Ultramarino
ANRJ – Arquivo Nacional do Rio de Janeiro
ANTT – Arquivo Nacional da Torre do Tombo
BNRJ – Biblioteca Nacional do Rio de Janeiro
cód. – códice
cx. – caixa
doc. – document
IGP – Intendência Geral da Policia
IHGB – Instituto Histórico e Geográfico Brasileiro
liv. – livro
mç. – maço
n. – note
PON – Primeiro Ofício de Notas
SEB – Secretário do Estado do Brasil
tít. – título
vol. – volume

PREFACE

As I suspect often happens, the dissertation I wrote is not the one I had expected to write when I began this research in 2014. At that time, I believed that my dissertation would broadly examine the social, cultural, and spiritual lives of enslaved people in Rio de Janeiro. In preliminary research trips to Brazil and Portugal, I followed the well-worn paths of historians before me through the archives, but I did not think to look into the ways that enslaved people tried to move themselves out from under enslavement. My very narrow understanding of manumission at that time (which was no one's fault but my own) falsely led me to believe that the study of manumission would only tell me about the experience of freedom. I have since come to learn that writing about freedom in colonial Brazil is fundamentally about thinking through its entanglements with slavery.

I first sensed this during the course of my dissertation research in 2016. Not long after I touched down in Brazil, my plans changed, an occurrence familiar to all researchers. One of the primary sites for my research, the Arquivo Nacional, closed for an unknown length of time. To keep myself busy, I visited other libraries and archives in the city, using that time to cast a wider net on historical sources from the eighteenth-century South Atlantic world. Time and again, as I worked in the Biblioteca Nacional, the Arquivo Geral da Cidade, and the Instituto Histórico e Geográfico Brasileiro (IHGB), I encountered documents about enslaved peoples' struggles for manumission. These were petitions (and colonial correspondence about those petitions) from slaves who protested violent slave owners and who proposed manumission as a solution to conflict. There were also petitions from freed people who worried that their freedom hung by a thread, with opportunistic heirs of their deceased former masters encroaching in their lives to re-enslave them. These were important stories to include in my dissertation, so I transcribed them diligently. Still, I did not imagine that they would radically alter the overall scope of the research.

That changed when I first learned about an individual named Antonio Francisco Granjeiro in a short but haunting letter from the year 1800. Granjeiro was born a slave in Rio de Janeiro in the second half of the eighteenth century. At the turn of the nineteenth century, Granjeiro's master exiled him across the Atlantic to Luanda, Angola. At the IHGB, I was working with a collection of digitized sources from Angola's National Archives when I came across the very letter that informed Angola's governor of Granjeiro's exile, and that accompanied Granjeiro across the Atlantic.¹ The letter declared that Granjeiro was thereafter the property of the Santa Casa de Misericórdia. It also mentioned that he had once been freed, but was now returned to a perpetual enslavement. I later learned that the donation was contingent on one condition: that the administrators of the Santa Casa agree to never free Granjeiro during his lifetime.

To my surprise, I also discovered that Granjeiro petitioned the Portuguese crown from Luanda in 1805, requesting his letter of manumission and his return to Rio de Janeiro.² His petition helped to fill in some gaps about his backstory. Years earlier, in an attempt to reverse his exile, Granjeiro fled to Portugal, where he gained his freedom in an audience with the crown. Upon learning that his slave was freed before making it to Angola, Granjeiro's master worked his connections in Lisbon to have the decision reversed. Admittedly, I had no clear or immediate sense of how to interpret Granjeiro's case. How did an enslaved man become an exile, then gain his freedom in Portugal, and then have that freedom revoked back in Brazil? I kept peeling back the layers, looking for as much information as I could about Granjeiro. I wondered what freedom could mean to someone like him. Eventually I came across one royal decree from Lisbon that simultaneously described Granjeiro as an *escravo* (slave), a *liberto* (freed person), and a *degredado*

¹ Códices do Arquivo Histórico Nacional de Angola, Projeto Acervo Digital de Angola-Brasil, Instituto Histórico e Geográfico Brasileiro. Códice 250 – C-10-2 [PADAB DVD 12, 38].

² AHU-Rio de Janeiro cx. 226, doc. 15492.

(exile). It hit me that I needed to rethink the scope of my dissertation. When the Arquivo Nacional reopened months later, it was impossible for me to not follow the questions that Granjeiro's story prompted. I now had new and nagging questions. What were the limits of manumission? How did enslaved people use the law to mediate, negotiate, and protect against those limits? Why did enslaved people turn to Portuguese monarchs (and not just judges) in their pursuit of freedom? How did Granjeiro make it to Lisbon? Was his experience unique?

In writing this dissertation, I have revised these questions and articulated new ones. But the question of exceptionality might offer us a helpful entry point into the analysis that follows. The answer to whether his story was unique is both yes and no. Granjeiro was exceptional in that very few individuals in the South Atlantic experienced his kind of journey. The winding paths of his life between Rio de Janeiro, Lisbon, and Luanda make him one of the more remarkable and unusual cases I encountered during research. At the same time, as we will see, there are many dimensions of his story that resonate and connect with the other individuals I discuss. Like others, he hoped to achieve his manumission by self-purchase, a customary practice in his own time forged by enslaved peoples' claims-making. The punishment he experienced for pressing his master about manumission—exile and banishment—was feared by enslaved people throughout Brazil who worried about separation from their families and communities. When Granjeiro fled his exile for Portugal, he, like so many other enslaved sailors, servants, and maritime fugitives of that era, acted on a belief that they would be emancipated in Portugal. And he was. But his freedom was tenuous so long as it affronted his master's will and dominion. Granjeiro, like many others, could try to wedge royal power between himself and his master through petitions to the crown, but this was no guarantee for his return or freedom. In short, Granjeiro was both exceptional and, more troublingly,

as I came to learn, an all too familiar story of slavery, freedom, law, and power in the South Atlantic.

“Freedom’s Edge” explores how enslaved people engaged with the law to achieve their manumission, or legal freedom, in the South Atlantic world. The chapters that follow cohere around two interrelated arguments. The first is that being *free* and being *freed* were not the same thing in the slave societies of the South Atlantic. If at first glance this distinction seems either excessive or apparent, the lives and experiences narrated throughout this dissertation will underscore both the power of and differences between both terms. To be freed—that is, to have gained one’s legal freedom via manumission—was to live in a precarious, vulnerable state. Across Brazil, formerly enslaved people always remained at risk of re-enslavement and kidnapping. This dissertation explores how people created a legal record of their freedom on the pages and in the margins of letters of manumission, ship manifests, civil suits, witness testimony, travel licenses, birth certificates, and royal decrees. It argues that in the process of creating and preserving these records as protection, people of African descent moving from slavery to freedom ultimately created and recreated themselves as freed subjects—or as they were known in Portuguese, *forros* and *libertos*. At the heart of these social and legal identities were implicit and categorical references back to one’s former enslavement. In other words, to be freed was to learn (out of necessity) the different ways to prove you were not a slave even after traversing lengthy paths to escape slavery. By more closely looking at what it meant to be freed, we have a better understanding of both the paths to manumission and the meanings of slavery.

In exploring the paths to becoming freed, a second argument emerges: as enslaved people struggled to gain their manumission, and then to protect it, they shaped the South Atlantic world in remarkable and sometimes surprising ways. Before the law, enslaved people generated freedom

letters, petitions, and legal suits, all of which were artifacts of their social experience with the law and expressions of their judicial knowledge and prowess. They recognized and acted on the precedents that others in their community and throughout the South Atlantic world set. As I explore this, the individuals discussed throughout—libertos, enslaved sailors, Atlantic exiles, maritime fugitives, household dependents, and many more—may appear to be exceptional. My analysis insists on probing their interconnections, yielding a more complete picture of how individual petitioners and litigants across space and time shaped the worlds they inhabited despite uneven power relations within the South Atlantic. Throughout the eighteenth century, enslaved people engaged in legal struggles asked piercing questions about customary rights, the meanings of a fair enslavement, and the limits of slave owners' power. In the process, they collectively left indelible marks on the law, on power, and on slavery itself.

INTRODUCTION

Perhaps he wondered to himself if he was being overly cautious, but Francisco das Chagas also recognized that he could not be too careful when it came to protecting his legal freedom. In Rio de Janeiro on August 15, 1799—Francisco recalled it to be at eleven a.m. precisely—he received a letter of manumission from his masters after paying them sixteen *dobras*, or 204\$800 *reís*. His freedom letter was drawn up on the spot in front of several neighbors. With that piece of paper, Francisco was declared freed, “as if he had been born from a free womb.” He immediately took his freedom letter to a local notary, who transcribed a copy of it in their ledger for safekeeping. Some time after this, however, Francisco realized that the letter left out what he considered to be a crucial detail. It did not record the price he paid for his manumission, nor did it even mention that he paid for his freedom. The matter, he thought, needed to be rectified.

Over one year later, in October of 1800, Francisco gathered together the same neighbors who were there on that August morning the previous year and asked them to sign a sworn statement. The statement confirmed that they saw the money change hands, and that it amounted to precisely 204\$800 *reís*. Once signed by all, Francisco brought the statement to a judge. Using the statement as evidence, he petitioned the judge to order one of the city’s notaries to amend his original freedom letter, this time to include the sum he paid his former masters. The judge approved the request. Two years had passed when in 1802 Francisco again returned to the notary. Having already amended the notarized copy of his freedom letter years earlier, Francisco now insisted that the sworn witness statement and his petition to the judge be recorded, preserved, and additional copies made for his possession.¹

¹ ANRJ, PON, Livro de Registro, 88-89v.

Why was Francisco das Chagas so concerned with the correction of his freedom letter and the preservation of these documents? In effect, he was building a public record of his legal freedom. While the materials he had copied, amended, notarized, and preserved do not reveal if he faced a specific threat or whether he was just taking precautions, his engagement with the judge and notaries suggests an acute awareness on his part that legal freedom was precarious in colonial society. In this way, his story connected with the struggle of thousands of other enslaved and freed people of his time who pursued their manumission but could not escape the vulnerabilities it engendered. Discrepancies down to the money he paid for his manumission could render him at risk if his former masters or their heirs tried to squeeze more money out of him, or even worse, if they tried to revoke his freedom. A discernible paper trail through the scribbled ledgers of notaries ensured that he had paper proof to protect himself before the law. That he went to such lengths to legitimize his freedom even after he had his manumission in hand prompts us to think about what he feared, and more generally, about the kinds of challenges individuals like him faced as they moved from slavery to freedom. As he engaged with the law and produced a legal record, he was motivated by what his petition called “the conservation of his rights.” Behind this short assertion, and the seemingly quotidian, repetitive encounters with colonial bureaucrats that gave it purchase, is a larger Atlantic history about both the challenges of legal freedom and the ways people of African descent confronted it.

Overview, Themes, and Problems

“Freedom’s Edge” explores enslaved peoples’ social experience with the law as they worked to achieve and protect their manumission. It illustrates that enslaved people acquired a particularly rich and inventive interpretation of the law that was deployed in the offices of notaries,

in the local courts, and in the Portuguese Court. It draws together into one analytical frame the lives and experiences of enslaved people from seemingly far-flung parts of the South Atlantic world who made themselves into litigants and petitioners. These locales included the Brazilian port city of Rio de Janeiro, the far southern captaincy of Rio Grande do Sul, the Amazonian region of Maranhão, the West Central African slaving port of Angola, and the heart of the empire, Lisbon, Portugal. Between and across this space, enslaved people made claims to legal freedom, and in the process deeply shaped the legal and political landscapes they inhabited. However, I do not lose sight of the fact that such claims were made in the context of uneven power relations, the violence of the slave trade, and indeed, enslaved peoples' very own subjugation under the law. As such, a core question animates this dissertation: Without losing sight of the complex interplay between materiality, the different manifestations of violence, enslaved agency, and structural processes like the slave trade, how can we more critically interrogate the multivalent, constrained, often troubling meanings of freedom alongside enslaved peoples' efforts to shape their world?

Here, the South Atlantic world describes the legal, cultural, political, and economic geographies that tied together Brazil, Portugal, and West Central Africa.² What began as a dissertation about Rio de Janeiro transformed into one about the South Atlantic as I realized how

² The classic work on the South Atlantic world is Luiz Felipe de Alencastro, *The Trade in the Living: The Formation of Brazil in the South Atlantic, Sixteenth to Seventeenth Centuries* (Albany: State University of New York Press, 2018). For other works in Atlantic history that inform this dissertation, see Randy J. Sparks, *The Two Princes of Calabar: An Eighteenth-Century Atlantic Odyssey* (Cambridge: Harvard University Press, 2004); Peter M. Beattie "'ReCapricorning' the Atlantic." *Luso-Brazilian Review* 45, no. 1 (2008), 1-5; Rosemary Brana-Schute and Randy Sparks (eds.), *Paths to Freedom: Manumission in the Atlantic World* (Columbia: University of South Carolina Press, 2009); Jane G. Landers, *Atlantic Creoles in the Age of Revolutions* (Cambridge: Harvard University Press, 2010); James H. Sweet, *Domingos Álvares, African Healing, and the Intellectual History of the Atlantic World* (Chapel Hill: The University of North Carolina Press, 2011); Roquinaldo Ferreira, *Cross-Cultural Exchange in the Atlantic World: Angola and Brazil during the Era of the Slave Trade* (New York: Cambridge University Press, 2012); Rebecca J. Scott and Jean M. Hébrard, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation* (Cambridge: Harvard University Press, 2012); Alex Borucki, *From Shipmates to Soldiers: Emerging Black Identities in the Río de la Plata* (Albuquerque: University of New Mexico Press, 2015); João José Reis, *Divining Slavery and Freedom: The Story of Domingos Sodré, an African Priest in Nineteenth-Century Brazil* (New York: Cambridge University Press, 2015).

struggles for legal freedom were imbricated in the fabric of the Portuguese Atlantic empire. Local experiences with manumission were linked with broader transformations in the Atlantic, such as the passage of new decrees governing slavery, the entrenchment and stabilization of the slave trade over the eighteenth century, and news and rumors about the Haitian Revolution.³ Yet, it was not only that enslaved and freed peoples perceived and then felt global changes in their local communities. They also found themselves moving (and being moved) throughout the Atlantic, not only as slaves through the ever-deepening routes of the slave trade, but also as maritime fugitives, as sailors, and as exiles banished by their masters.⁴ Some newly freed people had no choice but to move: their manumission was contingent on them moving anywhere in the world except the city where their masters lived.⁵ Enslaved people remained keenly aware of political developments in the Atlantic. Bringing an Atlantic perspective to the study of legal struggles for freedom helps us understand the ways that people of African descent built exchanges, bonds, and networks between Brazil, Angola, and Portugal. Even more, an Atlantic perspective helps us take account of the wide-reaching ramifications of individual legal actions, better situating it into an account of enslaved peoples' legal thought in the eighteenth century.

Moreover, this dissertation is influenced by what Joseph Miller calls “the biographical turn” in slavery studies, or the increased focus on individual lives to add greater texture to broad

³ On external forces like the slave trade impacting manumission, see Antonio Carlos Jucá de Sampaio, “A produção da liberdade: padrões gerais das manumissões no Rio de Janeiro colonial, 1650-1750,” in *Tráfico, Cativo e Liberdade (Rio de Janeiro, séculos XVII-XIX)*, edited by Manolo Florentino (Rio de Janeiro: Civilização Brasileira, 2005).

⁴ Renato Pinto Venancio, *Cativos do Reino: A circulação de escravos entre Portugal e Brasil, séculos 18 e 19* (São Paulo: Alameda Casa Editorial, 2012).

⁵ Examples abound. For two published cases, see that of Izidoro, whose manumission was only valid if he moved to Angola and never returned to Rio de Janeiro. Luitgarde Oliveira Cavalcanti Barros and Nireu Oliveira Cavalcanti, “Alforria: pretos e pardos – A caminho da liberdade no Rio colonial,” *Logos* 4, no 2 (1997), 66. See also the case of Esmeria in Goiás whose freedom was only valid so long as she never returned there. If she did, she would be re-enslaved. Mary C. Karasch, *Before Brasília: Frontier Life in Central Brazil* (Albuquerque: University of New Mexico Press, 2016), 278.

historical processes.⁶ When necessary, I offer historical context and discussions of change over time. Nevertheless, my analysis is animated by a close, granular reading of enslaved peoples' social experience and their judicial knowledge. My focus on individual lives and experiences means I opted for a thematic, case study-based approach over a chronological one.

As such, it is necessary to outline some of the key interconnected themes and problems that drive this dissertation in order to orient the reader to the major contributions. A central theme that runs throughout the dissertation is the law, or more precisely, enslaved peoples' understanding of it. In speaking of Portuguese law, as well as what we call "slave law," it is best to think of it not as one monolithic body of regulations, but rather an amalgamation of civil codes, customs, decrees, privileges, and royal orders, all of which were conditioned by the supreme will and authority of the monarch.⁷ There was not one consolidated body of legal regulations that governed slavery in Brazil. Judges and colonial officials also drew from an array of judicial sources that traced their origins to Roman and Iberian principles in order to reach decisions on matters relating to slavery and manumission. Moreover, until the Lei do Rio Branco of 1871, there was no codified law that compelled slave owners to free their slaves if a payment was offered. Until then, as Manuela Carneiro da Cunha argues, imperial law was strategically silent on matters relating to slavery and manumission, preserving slave owners' moral authority over their property.⁸

I explore the shaping of the Portuguese legal landscape from "below," through the lens of people of African descent. Enslaved people made powerful appeals for legal freedom, innovatively

⁶ Joseph C. Miller, "A Historical Appreciation of the Biographical Turn," in *Biography and the Black Atlantic*, eds. Lisa A. Lindsay and John Wood Sweet (Philadelphia: University of Pennsylvania Press, 2014).

⁷ Alan Watson, *Slave Law in the Americas* (Athens: The University of Georgia Press, 1989); Silvia Hunold Lara, "Introdução," *Legislação sobre escravos africanos na América Portuguesa*, in *Nuevas Aportaciones a la Historia Jurídica de Iberoamérica*, ed. José Andrés-Gallego (Madrid: Fundación Histórica Tavera, 2000); Keila Grinberg, *O fiador dos brasileiros: Cidadania, escravidão e direito civil no tempo de Antonio Pereira Rebouças* (Rio de Janeiro: Civilização Brasileira, 2002), 244.

⁸ Manuela Carneiro da Cunha, "Silences of the Law: Customary Law and Positive Law on the Manumission of Slaves in 19th Century Brazil," *History and Anthropology* 1, no. 2 (1985), 427-443.

interpreted royal decrees, and in a few cases, proposed laws on manumission that predated the Lei do Rio Branco by nearly a century. At the local level, they lodged complaints against their masters for infractions on their personal safety, petitioned judges to prevent the separation of families by sale or banishment, and leveraged legal pressures against their masters to accept payment for legal freedom. In doing so, they forced judges, colonial authorities, and the crown to take decisive action on a range of issues, ultimately setting precedents for others living under slavery. As these legal challenges accumulated, individual petitioners and litigants created and recreated the conditions for other enslaved people to continue in a tradition of claims-making. Individual claims sometimes reverberated throughout the Atlantic world, inspiring others to take similar legal measures. In short, as enslaved people acted on their judicial knowledge, they left a powerful imprint on the Atlantic world, filling the “silences” of the law with their own understandings of legal freedom, justice, and subjecthood.

It is also imperative to examine enslaved peoples’ social experience with the law. While enslaved people who employed the courts found ways to make the law work for them, they also recognized the limits of this avenue. On the ground, racial hierarchies and fears of slave rebellion proved to cast more doubt on slaves’ legal actions and whether their cases could be considered. Masters, scribes, and judges, sometimes implicitly, sometimes explicitly, pointed to race and color, for instance, as evidence against letting slaves bring suit, or as reasons to discredit witnesses of African descent. Colonial authorities did everything in their power to undermine claims made by slaves in order to preserve social peace (*sossego público*). Enslaved people learned that colonial law itself, far from being a neutral force that objectively discerned justice, created a range of worrisome contingencies that affected litigants, their kin, and their community. Challenging slave owners in the courts or appeals system rendered litigants vulnerable to physical abuse or sale “para

fora da terra,” literally away from the land. Throughout the dissertation, I explore different strategies that enslaved people developed to mitigate their vulnerable positions as litigants and petitioners. Through these strategies, which shrewdly turned procedural matters into mechanisms of protections and forms of leverage, enslaved people advanced their cause and won degrees of autonomy that allowed them to strengthen the claims that they and their representatives made before judge and monarch. By writing what we might call social histories around the law, we can better understand what it was like for enslaved people to engage with a force that at once legitimized their subjugation and provided mechanisms for ways out of slavery.

One key way to do this is by exploring *sevícias* as a field of contention between slaves, slave owners, judicial authorities, and monarch. An eighteenth-century dictionary defined *sevícias* as “the bad treatment that the husband gives his wife, the father to his child, the master to his slave.”⁹ It was at the turn of the eighteenth century, during the reign of Pedro II, that different actors within the Portuguese Empire first raised concerns about the poor and cruel treatment of slaves in Brazil on a wide scale. The passage of two decrees in 1688 regulating the treatment of slaves in Brazil was a watershed moment. The two decrees established enslaved peoples’ right to denounce their masters and to seek new masters who promised better treatment. *Sevícias* as a legally-inscribed violation of enslaved peoples’ limited rights emerged, I argue, because of how they made that word and its meanings signify their personhood, and, therefore, themselves as worthy of protection. Beginning shortly after the 1688 decrees, enslaved people, through petitions and legal suits, gradually transformed the right to change masters delineated in the decrees into a customary right to manumission. In doing this, they set important precedents that enslaved petitioners would explicitly cite over one century later.

⁹ Antonio de Moraes Silva, *Diccionario da Lingua Portugueza Composto pelo Padre Rafael Bluteau, Reformado e Acrescentado por Antonio de Moraes Silva* (Lisboa: A Officina de Simão Thaddeo Ferreira, 1789), 399.

Enslaved people invoked *sevicias* to articulate a set of claims about treatment and legal freedom. Enslaved litigants in legal suits could point to actual cruelties against their bodies as well as the threat of cruelties in order to place themselves and their family in the custody of a third party (*depósito*). Legal pressures could also force slave owners to sign notarized statements promising to cease or avoid any physical punishments against their slaves. Enslaved people also widened the definition of *sevicias* to include threats of sale and exile made against them by slave owners, thus inherently defining separation from family and the violation of conjugal rights as a form of *sevicias*. Thus, by exploring claims of *sevicias*, we can better understand how slaves not only interpreted the law, but also shaped it.

In exploring enslaved peoples' understanding of and social experiences with the law, "Freedom's Edge" ultimately confronts the inevitable and elusive challenge of figuring out how to go about that. Judges left opinions, treatises, and correspondence. Enslaved people, on the other hand, left records that are mediated by literate third parties whose own voices and registers found their way into documents. I make these records and their production a subject of inquiry.¹⁰ The production of the historical record of freedom, or more simply put, the power of paper, forms another important theme in this dissertation. The precarity of legal freedom and the threat of re-enslavement or kidnapping made paper evidence invaluable in protecting one's self. Newly freed peoples learned to preserve documents relating to their manumission, such as freedom letters, baptismal records, or the last will and testaments of their former masters.¹¹ Slaves who invoked *sevicias* in order to remove themselves from their master's home learned that requesting a detailed evaluation of their bruised bodies might help sway a judge or official. They often kept these

¹⁰ José Ramon Jouve Martín, *Esclavos de la ciudad letrada: esclavitud, escritura y colonialismo en Lima (1650-1700)* (Lima: Instituto de Estudios Peruanos, 2005); Bianca Premo, "Before the Law: Women's Petitions in the Eighteenth-Century Spanish Empire," *Comparative Studies in Society and History* 53, no. 2 (April 2011), 261-289.

¹¹ AHU-Rio de Janeiro, cx. 223, doc. 15301.

materials in their possession as counter-archives that could be wielded and mobilized towards different ends. When paper proof of freedom was unavailable, enslaved litigants learned how to generate other kinds of records of their freedom, such as witness testimony. To be sure, paper evidence did not guarantee protection. Colonial authorities, for instance, accused enslaved and freed people of forging documents as well as identity theft. Yet, by closely interrogating how enslaved people made a record of their legal freedom, we can use their actions and decisions to learn what they saw kept their freedom out of reach or what made it precarious.

Finally, this dissertation is tied together by an analysis of manumission, or the conferral of legal freedom to slaves. Any study involving freedom runs the risk of reproducing either fundamentally Western assumptions about its meanings, or reading contemporary ideas of freedom onto the past.¹² Indeed, the broad field of American slavery has been in a moment of rethinking the kinds of meanings that freedom could have in the Americas for over a decade.¹³ The problem is that since the 1960s and 1970s, the study of slave agency has inadvertently, as one historian puts it, “[reduced] complex lives to a single-minded fight for freedom,” even as it challenged a previous historiography that denied agency to slaves.¹⁴ In rethinking how we approach slave agency, we also have to rethink how we approach freedom or whether freedom should be a central theme at all.¹⁵ I share historians’ concerns for overstating agency and their cautions against conflating

¹² Igor Kopytoff and Suzanne Miers, “African ‘Slavery’ as an Institution of Marginality,” in *Slavery in Africa: Historical and Anthropological Perspectives*, eds., Suzanne Miers and Igor Kopytoff (Madison: The University of Wisconsin Press, 1977); “Introduction,” in *Beyond Slavery: Explorations of Race, Labor, and Citizenship in Postemancipation Societies*, edited by Frederick Cooper, Thomas C. Holt, Rebecca J. Scott (Chapel Hill: The University of North Carolina Press, 2000); Sweet, *Domingos Álvares*, 230-231.

¹³ On the need to set aside agency as a research agenda, see Walter Johnson, “On Agency,” *Journal of Social History* 37, no. 1 (2003), 113-124; Jessica Millward, “On Agency, Freedom, and the Boundaries of Slavery Studies,” *Labour/Le Travail* 71 (2013), 193-201; Terri L. Snyder, *The Power to Die: Slavery and Suicide in British North America* (Chicago: The University of Chicago Press, 2015), 16-18; Rachel O’Toole, “As Historical Subjects: The African Diaspora in Colonial Latin American History,” *History Compass* 11, no. 12 (2013), 1094-1110.

¹⁴ Randy M. Browne, *Surviving Slavery in the British Caribbean* (Philadelphia: University of Pennsylvania Press, 2017), 4.

¹⁵ The call to decenter freedom is most explicit in *ibid.*, 3-4.

agency with a desire for freedom. Some slaves, in fact, preferred to remain in slavery.¹⁶ To be clear, enslaved agency is an assumption of the dissertation, but not a conclusion. Instead, this dissertation probes into what slaves thought about manumission and the law and how they experienced it. There are many different ways that enslaved and freed people sought autonomy and developed meaningful identities, enabling themselves and their kin to live rich social and spiritual lives in spite of the forces of enslavement. My focus is squarely on manumission without any assumptions that all slaves desired it or that legal freedom perfectly severed ties from slavery.

Between Structure and Agency

The conceptualization of this dissertation is a response to and dialogue with the massive and wide-ranging historiography on slavery and freedom in the colonial Americas. Throughout the dissertation, I offer closer historiographical contextualization as it informs each case study and theme. In what follows, I will outline some of the broad historiographical themes and gaps that concern the dissertation. First, I will look closely at debates within key works in the Brazilian historiography that have shaped how we think about manumission in colonial slave society. My reading of these key works in the historiography suggests that the conceptual debates have moved between structure and agency over the last few decades. The result is that conversations in the field continue to use past debates as a reference point, repackaging agency and structure in new ways. After charting this, my dissertation discusses the wider literature on the now established field of Afro-Latin America. I argue that more explicitly bringing into conversation Portuguese America with works on Spanish America, we are better able to redefine our animating research questions.

¹⁶ Júnia Ferreira Furtado, “Honor and Dishonor in the Slavery of Colonial Brazil,” in *On Human Bondage: After Slavery and Social Death*, eds. John Bodell and Walter Scheidel (Malden: Wiley Blackwell, 2017), 169-171.

The study of slavery, manumission, and the law in colonial Brazil has been deeply shaped by debates among Brazilian and North American historians over the nature and characterization of slavery in Brazil and Latin America.¹⁷ Scholars in both regions have explored manumission—either centrally or as one component of their research agenda—in order to support conclusions about the relative access to legal freedom among slaves, the structural role of manumission in reproducing the slave order, the function of manumission as a safety valve for political and economic pressures, and as a measure of the violence inherent in the slave system. Manumission gained attention among scholars of the so-called São Paulo School in the 1960s and 1970s, who set out to criticize the overarching claims made by Gilberto Freyre about the benign and patriarchal nature of slavery in Brazil. Informed by their Marxism and dissatisfied with the ideology of racial democracy, scholars of the São Paulo School, including Fernando Henrique Cardoso, Octavio Ianni, Florestan Fernandes, Emília Viotti da Costa, and Jacob Gorender, re-conceptualized slavery as “a colonial mode of production” based on explicit violence and coercion, which helped to explain how postcolonial Brazil inherited deeply unequal race relations.¹⁸ While they did not focus exclusively on manumission, these scholars framed manumission as a function of the economic prerogatives of slave owners. As such, they debated whether more or fewer manumissions were granted to enslaved people in times of economic prosperity/expansion or crisis, the implication being that manumission functioned solely to expand or protect slave owner’s capital.¹⁹ They also

¹⁷ Jean M. Hébrard, “Slavery in Brazil: Brazilian Scholars in the Key Interpretive Debates,” *Translating the Americas* 1 (2013), 47-95.

¹⁸ Otávio Ianni, *As metamorfoses do escravo. Apogeu e crise da escravatura no Brasil meridional* (São Paulo: Difusão européia do livro, 1962); Fernando Henrique Cardoso, *Capitalismo e escravidão: o negro na sociedade escravocrata do Rio Grande do Sul* (São Paulo: Civilização Brasileira, 2003); Jacob Gorender, *O escravismo colonial* (São Paulo: Editora Ática, 1978); Emília Viotti da Costa, *Da senzala à colônia* (São Paulo: Difusão Européia do Livro, 1966). Hébrard rightly points out that while Costa belongs to this group, her work included important themes of resistance and agency that would later be taken up. Hébrard, 55.

¹⁹ The argument went that during times of economic prosperity and expansion, manumission could work to reproduce slavery by reinvesting the profits from paid manumissions into the purchase of new slaves. Alternatively,

maintained that the elderly and infirm were the primary beneficiaries of manumission, a chilling counterpoint to the myth of Iberian benevolence. In both accounts, enslaved people were treated as mere “things,” as later scholars would charge, and legal freedom was simply a mechanism of slave owners’ economic interests and power. The São Paulo School has been widely dismissed by subsequent generations of scholars. Their conceptual framing of manumission and their focus on slave-owning power has invariably, if at times unrecognized, left a watermark on the course of the historiography.

Another group of historians, contemporaries of the São Paulo School, recognized that, as Stuart Schwartz described in 1974, “It is clear that very little is known about the process [of manumission] or how it operated.” Until that decade there had been a tendency among primarily North American scholars to treat manumission in comparative terms, making generalized conclusions about different slave systems, as well as racial relations, throughout the Americas. Because much of this work was based on traveler’s accounts and other sporadic evidence, it offered little in the way of empirical evidence drawn from the *cartas de alforria* in local notarial and judicial archives. Employing quantitative analyses that generated broad sketches of who was freed and under what circumstances, Stuart Schwartz, Mary Karasch, James Kiernan, Kátia Mattoso, and others avoided the binary pitfalls of seeing manumission as either “culturally determined humanitarianism” or as narrowly economically driven.²⁰

some scholars viewed manumission in times of crisis as a method of disposing of slaves to save the costs of feeding, housing, and clothing them.

²⁰ Schwartz, “The Manumission of Slaves in Colonial Brazil,” 634; Katia Mattoso, “A propósito de cartas de alforria,” *Anais de História* 4 (1972), 23-52; James P. Kiernan, “The Manumission of Slaves in Colonial Brazil: Paraty, 1789-1822,” (Ph.D. Diss., New York University, 1976); Mary Karasch, *Slave Life in Rio de Janeiro, 1808-1850* (Princeton: Princeton University Press, 1987); Peter Eisenberg, “Ficando Livre: as alforrias em Campinas no século XIX,” in *Homens esquecidos: escravos e trabalhadores livres no Brasil, séculos XVIII e XIX* (Campinas: Editora da Unicamp, 1989).

Even as these studies complicated binary, static views of manumission, their emphasis on quantitative analysis placed limits on a deeper exploration into the experience of enslaved people. This changed during the 1980s, when a new generation of Brazilian historians trained in social history and influenced by North Atlantic scholars, including Eugene Genovese, Herbert Gutman, and E.P. Thompson, set out to revise dominant narratives about slavery and freedom in Brazil.²¹ If scholars once concerned themselves with explaining why manumissions were *conceded* to enslaved people, to a new group of historians including Silvia Hunold Lara, Sidney Chalhoub, and Keila Grinberg the more appropriate framing was: how did slaves *achieve* their freedom? Ironically, the São Paulo School's attempt to discredit the distorted views of Freyre and Frank Tannenbaum effectively treated slaves themselves as things rather than historical agents. In their view, slavery was so violent, the law so steeped in the structures of domination that reproduced slave society, and therefore, manumission so inherently imbued with coercion, that the havoc wreaked on slaves was too overwhelming for them to have created families, to have lived autonomous lives, or to have had some voice in their own struggle for legal freedom.

A major turning point in the historiography was the publication of Lara's *Campos da Violência* in 1988, the centenary of the abolition of slavery in Brazil. *Campos da Violência* directly challenged the prevailing characterization of Brazilian slavery as sustained by violence, which Lara believed flattened and abstracted the historical circumstances under which enslaved people, freed people, and slave owners negotiated power in everyday life. In presenting a more nuanced explanation for the exercise of power in colonial society, Lara criticized the *coisificação* (thingification) of enslaved people, whom she viewed as agents in their own history. *Campos da*

²¹ For a useful reflection on these influences, see, Silvia Hunold Lara, "Blowin' in the Wind: E. P. Thompson e a experiência negra no Brasil," *Projeto História* 12 (1995), 43-56. The impact of these foreign influences on Brazilian historiography would inevitably be a point of critique from adherents of the São Paulo School, including Jacob Gorender.

Violência has important implications for the study of freedom, some of which are only finally being attended to by scholars of Brazil. Significantly, Lara is one of the first historians of Brazilian slavery to highlight enslaved peoples' consciousness that royal power exercised by the crown and its representatives in colonial society could place substantial limits on slave owners' power.

Lara's innovative use of judicial records reflects a growing interest among historians trained in the 1980s to use those records to help reconstruct the lives of enslaved people and their freedom struggles.²² Chalhoub's *Visões da Liberdade* (1990) built on Lara's criticisms of the "theory of the slave-thing" (*teoria da coisa-escrava*) to narrate the different ways that enslaved people developed their own understandings and meanings of freedom. By excavating freedom suits (*ações de liberdade*) in Rio de Janeiro in the decades leading up to abolition, Chalhoub demonstrated that enslaved peoples' "visions of freedom" did not fit neatly into the binary of passivity and large-scale resistance.²³ The law offered one key forum within which such visions could be expressed and acted on. Grinberg supported this perspective in *Liberata* (1993), which further deepened the growing divide between two generations of historians who maintained unquestionably divergent views on agency and the historical experience of slaves. Grinberg explored the distinctions between customary and positive law in the nineteenth century as it informed the process and outcome of legal suits for freedom brought forth by slaves.²⁴ This new cohort of historians were quickly criticized by their predecessors. Gorender, for instance, went so far as to label them "neo-patriarchalists," charging that their studies only reproduced the myth that

²² Lenine Nequete, for example, published a collection of documents relating to slavery and the law in *O escravo na jurisprudência Brasileira: magistratura e ideologia no Segundo Reinado* (Porto Alegre: Revista dos Tribunais, 1988).

²³ Sidney Chalhoub, *Visões da liberdade: uma história das últimas décadas da escravidão na corte* (São Paulo: Companhia das Letras, 1990).

²⁴ Keila Grinberg, *Liberata—a lei da ambiguidade: as ações de liberdade da Corte de Apelação do Rio de Janeiro no século XIX* (Rio de Janeiro: Centro Edelstein de Pesquisas Sociais, 2008).

Brazilian slavery was benign and benevolent.²⁵ Manumission and the social experience of freedom figured prominently into these debates because they represented interpretive avenues to more clearly distinguish between the agency of slaves, the nature of violence, and the dynamics of the law that undergirded the violence. It was evident to all of these scholars that manumission functioned as a form of social control, but the way that control was exercised was clearly up for debate, and in some ways still is.

Manumission studies have made important inroads in bringing to light the complicated and uneven paths to manumission. Yet for some, disputes from the 1960s to 1980s about the nature of slavery and freedom continue to frame the terms of the scholarly dialogue over manumission and its place in colonial society. That enslaved people had agency is no longer a point of contention (though it clearly deserves to be problematized), but there is a thread of work that attempts to re-theorize the structural role of manumission in reproducing Brazilian slave society. This has been done not by looking at the experience of enslaved people in seeking their freedom, *per se*, but instead in framing manumission as a release valve for pressures exerted by slave resistance and supported by the continual introduction of new African slaves through the trans-Atlantic trade. Rafael de Bivar Marquese, for example, seeks to explain why more runaway slave communities like Palmares did not emerge after its destruction. Attempting to develop a theoretical model for the reproduction of slave society, Marquese argues, “It was necessary to create safety mechanisms that could avoid social tensions like those in the English or French Caribbean or even like in Pernambuco [Palmares] in the seventeenth century.” In turn, there was a “close relationship between the voluminous trans-Atlantic Slave Trade and the constant number of manumissions” in

²⁵ Jacob Gorender, *A escravidão rehabilitada* (São Paulo: Editora Ática, 1990); Suely Robles Reis de Queiróz, “Escravidão negra em debate,” in *Historiografia brasileira em perspectiva*, ed. Marcos Cezar de Freitas (São Paulo: Editora Contexto, 1998).

Brazil.²⁶ Similarly, Márcio de Sousa Soares, revisiting Campos dos Goitacazes, the setting of Lara's *Campos da Violência*, affirms Marquese's explanatory model and argues for an interpretive framework in which the slave trade, slavery, and manumission are "understood as constitutive parts of the same process that produced, reproduced, and as such, sought to sustain the stability of the slave order."²⁷ Put differently, Soares suggests that manumission acted as a safety valve to release the social and political pressures created by the constant introduction of new Africans into Brazilian slave society.

Oscillating between structure and resistance, Brazilian historiography has been steeped in decades-long debates over the function of manumission and the explanation for why Brazil had allegedly higher rates of manumission than other regions in the Americas.²⁸ On this latter point, we should remember, as James Sweet argues, that manumission was "decidedly illiberal" when we consider the limits of freedom for particular groups, especially African men. Even those recent studies that purport to conceptualize agency and resistance within explanatory models for manumission fall short of moving beyond the terms of the debate established decades ago. Most recently, in Marquese and Soares' work, for instance, resistance reads as monolithic, static, and flattened of complexity. Resistance becomes only a measure of whether an individual or collective act threatened the "slave order." The result is an explanation that ultimately falls back on master-

²⁶ Marquese, "A dinâmica da escravidão," 118, 109. More recently, in 2013, Marquese also published a review article in which he returned to a critique of Lara's and Chalhoub's path-breaking work, claiming their turn away from the materialist perspectives of their predecessors left a massive gap in the historiography. While his position is not a defense of the São Paulo School, the review's publication reflected the enduring impact and influence of earlier debates in shaping how historians devise their research agendas about slavery, freedom, economy, and violence. Rafael de Bivar Marquese, "As desventuras de um conceito: capitalismo histórico e a historiografia sobre a escravidão brasileira," *Revista de História* 169 (2013), 223-253.

²⁷ Márcio de Sousa Soares, *A remissão do cativo: a dádiva da alforria e o governo dos escravos nos Campos dos Goitacazes, c. 1750 – c. 1830* (Rio de Janeiro: Editora Apicuri, 2009), 198-200. Others who make arguments in this vein include Manolo Garcia Florentino, "Alforrias e etnicidades no Rio de Janeiro oitocentista: notas de pesquisa," *Topoi* (2002), 9-40; Sampaio, "A produção da liberdade."

²⁸ James Sweet, "Manumission in Rio de Janeiro, 1749-1754: An African Perspective," *Slavery and Abolition* 24, no. 1 (2003), 55.

centered explanations, when the very binaries between master- and slave-centered explanations foreclose avenues into the intellectual worldview of enslaved people as they perceived the spectacles of the law and royal power enacted between and across the Atlantic. This dissertation argues that, from a historiographical perspective, it is necessary to move away from the framing questions of the past few decades as we situate manumission and the law in a wider colonial context.²⁹

People of African Descent and the Law in Afro-Latin America

In pushing the Brazilian historiography in new directions, this dissertation incorporates debates and insights drawn from scholars of slavery, the African diaspora, and the law in the Americas. Since the publication of Frank Tannenbaum's *Slave and Citizen* (1946), scholars have gone back and forth over some of the key claims that book laid out. Tannenbaum argued that manumission practices and post-emancipation race relations differed throughout the Americas because of the degree to which imperial legal systems endowed enslaved persons with a moral and legal personality.³⁰ Iberian slave societies, invariably more "favorable to freedom," thus set greater opportunities for manumission than in British North America, where laws were considerably more hostile to slaves. Tannenbaum's thesis has been widely criticized, and it not necessary to review those debates here. But it is worth pointing out that, as Alejandro de la Fuente observes, Tannenbaum "gave laws a social agency that they did not have." This is a key point of departure for this dissertation, for as I argue throughout, following de la Fuente, it was enslaved people who "gave concrete social meaning to the abstract rights regulated in positive law." Whether they draw

²⁹ A recent special issue of the *Revista de História Brasileira*, edited by Silvia Lara, sets out to begin this conversation. See Silvia Lara, "Por escravos e libertos: uma grande diferença," *Revista Brasileira de História* 38, no. 79 (2018), 13-18.

³⁰ Frank Tannenbaum, *Slave and Citizen* (Boston: Beacon Press, 1992), 65.

insight from Tannenbaum's analysis of the legal pluralistic and religious frameworks that shaped Iberian America or whether they dispel of Tannenbaum completely, a new generation of scholars share in the endeavor of exploring how people of African descent interpreted the law, worked within its uneven constraints, and invoked kin and ethnicity as a source of knowledge, all without losing a balance of the competing dynamics of structure and agency.³¹

Herman Bennett's *Africans in Colonial Mexico* (2003) charted new paths for the study of Africans and their descendants in the Americas by introducing the concept of legal consciousness. According to Bennett, "Savvy in their quest for autonomy, urban Africans and their descendants acquired a legal consciousness composed of an awareness of rights and obligations, familiarity with the legal system, and the ability to initiate litigation that rallied the courts and its personnel in the pursuit of justice."³² This legal consciousness was evident, for example, in the complaints from royal slaves of the El Cobre mine in Cuba, who María Elena Díaz found to have collectively "made exhaustive use of the royal courts as a form of mobilization."³³ Bennett brings to our attention the competing forces of Christianity, absolutism, and the law as regulatory instruments of power, but also as sites of possibility for enslaved and freed people to provide protections and limited rights for themselves and their kin.³⁴

It is this dynamic between power and possibility that is leading historians of the growing field of Afro-Latin America to explore what Bennett calls consciousness, and what Rachel

³¹ Among those who find some relevance in Tannenbaum's work: Alejandro de la Fuente, "Slave Law and Claims-Making in Cuba"; McKinley, *Fractional Freedoms*. Those on the other side of the debate include María Elena Díaz, "Beyond Tannenbaum," *Law and History Review* 22, no. 2 (Summer 2004), 371-376; Christopher Schmidt-Nowara, "Still Continents (And an Island) with Two Histories," *Law and History Review* 22, no. 2 (Summer 2004), 377-382.

³² Herman Bennett, *Africans in Colonial Mexico: Absolutism, Christianity, and Afro-Creole Consciousness, 1570-1640* (Bloomington: Indiana University Press, 2003), 2.

³³ María Elena Díaz, *The Virgin, the King, and the Royal Slaves of El Cobre: Negotiating Freedom in Colonial Cuba, 1670-1780* (Stanford: Stanford University Press, 2000), 310.

³⁴ Also see Nicole von Germeten, *Black Blood Brothers: Confraternities and Social Mobility for Afro-Mexicans* (Gainesville: University of Florida Press, 2006).

O'Toole calls "subjectivities," as part of processes of daily life and creolization.³⁵ Enslaved peoples' intellectual worldview, these scholars insist, reflect their capacity to think and act strategically and expansively about the law and its limits. As Lyman Johnson argues for late colonial Buenos Aires, "slaves forged a well-developed sense of justice and equity. They had also accumulated broad understandings of the legal system."³⁶ This understanding led them as much to know the law's opportunities as to recognize its limits. In her study of enslaved people and Andeans in Peru, O'Toole recognized that enslaved people navigated the limits of the law by framing their claims within existing juridical frameworks, but also inscribed ideas about justice internally within their communities to circumscribe slave owners' power when they saw the law's parameters constricting.³⁷

The law encompassed much more than the courts or appeals systems. Bennett's view of absolutism as central to the configurations of colonial life for Africans pushes scholars to identify how the figure of the monarch operated in enslaved peoples' view of the juridical-imperial landscape. Díaz's study of royal slaves in the El Cobre mine in Cuba shows that they "often invoked this imagined powerful figure [the king] to legitimize their claims vis-à-vis more immediate figures of authority and to contend policies in everyday life, in the courts, and in other forms of mobilization like flight (*cimarronaje*) and revolt."³⁸ A.J.R. Russell-Wood and Kirsten Schultz examine how enslaved people tapped into the economy of royal grace through petitions directly to Portuguese monarchs, which reveal how enslaved petitioners recognized where

³⁵ On Afro-Latin America as a discrete field, see Alejandro de la Fuente and George Reid Andrews, "The Making of a Field: Afro-Latin American Studies," in *Afro-Latin American Studies: An Introduction*, edited by Alejandro de la Fuente and George Reid Andrews (New York: Cambridge University Press, 2018).

³⁶ Lyman L. Johnson, "'A Lack of Legitimate Obedience and Respect': Slaves and Their Masters in the Courts of Late Colonial Buenos Aires," *Hispanic American Historical Review* 87, no. 4 (2007), 631-657.

³⁷ Rachel O'Toole, *Bound Lives: Africans, Indians, and the Making of Race in Colonial Peru* (Pittsburgh: University of Pittsburgh Press, 2012), 122-156.

³⁸ Díaz, *The Virgin, The King, and the Royal Slaves of El Cobre*, 15.

master's authority ended and the sovereign's power began.³⁹ In *Indian and Slave Royalists in the Age of Revolution*, Marcela Echeverri shows how enslaved people in the northern Andean region of Popayán used their knowledge and interpretations of new legislation emanating from Bourbon rule in order to create new pathways for protecting themselves against violence and power.⁴⁰ In West Central Africa, studies by Mariana Candido and José Curto demonstrate how free and vulnerable Africans invoked their legal status and vassalage to prevent their forced transportation across the Atlantic.⁴¹ Throughout Latin America and Atlantic Africa we see different kinds of claims-making assuming different forms that reflected enslaved peoples' juridical fashioning as vassals of a not entirely mysterious, mystical, or faraway sovereign. Monarchical power and its differentiated exercise over slave and slave owner thus became a field of struggle, one I view as instigated by enslaved people themselves.

Manumission, its imbrication in social tensions, and its functioning in the law did not exist outside of relations of gender and sexuality. That letters of manumission and gradual abolition laws often referenced the legal status of their mother's womb to describe those benefitting from freedom (e.g., as if they were born from a free womb) reminds us that slavery and freedom was about distinctly racialized and gendered bodies. Scholars show that enslaved men and women pursued different legal and extralegal strategies in order to liberate themselves or to carve some

³⁹ A.J.R. Russell-Wood, "'Acts of Grace': Portuguese Monarchs and Their Subjects of African Descent in Eighteenth-Century Brazil," *Journal of Latin American Studies* 32 no. 2 (May 2000), 307-332; Kirsten Schultz, *Tropical Versailles: Empire, Monarchy, and the Portuguese Royal Court in Rio de Janeiro, 1808-1821* (New York: Routledge, 2001), 165-176. On these petitions, also see the dissertation, Priscila de Lima, "De libertos a habilitados: interpretações populares dos alvarás anti-escravistas na América portuguesa (1761-1810)," (Ph.D. Diss., Universidade Federal do Paraná, 2011).

⁴⁰ Marcela Echeverri, *Indian and Slave Royalists in the Age of Revolutions: Reform, Revolution, and Royalism in the Northern Andes, 1780-1825* (New York: Cambridge University Press, 2016).

⁴¹ José C. Curto, "Struggling Against Enslavement: The Case of José Manuel in Benguela, 1816-20," *Canadian Journal of African Studies* 39, no. 1 (2005), 96-122; Mariana P. Candido, "African Freedom Suits and Portuguese Vassal Status: Legal Mechanisms for Fighting Enslavement in Benguela, Angola, 1800-1830," *Slavery and Abolition* 32, no. 3 (2011), 447-459.

autonomy for themselves and their family.⁴² In *Conceiving Freedom*, Camillia Cowling studies Brazil and Cuba together to illustrate how enslaved women's claims-making shaped discourses and practices leading up to gradual abolition laws in both societies.⁴³ Michelle McKinley, in *Fractional Freedoms*, illustrates how intimate and affective relations across legal statuses and between slave and master inscribed themselves into the processes of manumission and experiences in court.⁴⁴ Most recently, Tamara Walker's *Exquisite Slaves* reveals that enslaved women and men were able to "push the limits of their legal status" through dress and self-fashioning.⁴⁵

In rethinking how enslaved people carved out juridical standings for themselves among the pluralistic frameworks of law, religion, and empire, we are closer to understanding genealogies of and practices within the law as connected as much to the actions of people of African descent as the concerns of the "lettered." If, following O'Toole, we make Africans and their descendants the "subjects rather than the objects" of our research, what can we say is the broader impact of that across society?⁴⁶ Alejandro de la Fuente finds that legal claims-making among enslaved people helped to shape and codify distinct rights for enslaved people in Cuba to seek their freedom and change masters.⁴⁷ Similarly, Sherwin Bryant argues that enslaved and free litigants, through their challenges in the legal sphere, helped to create a "corpus of case law" that established precedents.⁴⁸

⁴² A particularly powerful influence on studies centering on gender and sexuality in Latin America is Stephanie Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: The University of North Carolina Press, 2004).

⁴³ Camillia Cowling, *Conceiving Freedom: Women of Color, Gender, and the Abolition of Slavery in Havana and Rio de Janeiro* (Chapel Hill: The University of North Carolina Press, 2013).

⁴⁴ McKinley, *Fractional Freedoms*.

⁴⁵ Tamara Walker, *Exquisite Slaves: Race, Clothing, and Status in Colonial Lima* (New York: Cambridge University Press, 2017).

⁴⁶ O'Toole, "As Historical Subjects," 1104.

⁴⁷ De la Fuente, "Slaves and the Creation of Legal Rights in Cuba: Coartación and Papel." Also see the work of Adrian Masters on petitions in Spanish America. Adrian Masters, "A Thousand Invisible Architects: Vassals, the Petition and Response System, and the Creation of Spanish Imperial Caste Legislation," *Hispanic American Historical Review* 98, no. 3 (2018), 377-406.

⁴⁸ Sherwin Bryant, *Rivers of Gold, Lives of Bondage: Governing Through Slavery in Colonial Quito* (Chapel Hill: The University of North Carolina Press, 2014) 127.

In her recent study, *The Enlightenment on Trial*, Bianca Premo forwards the ambitious argument that enslaved people, alongside other subaltern actors in colonial society, contributed to the production of the enlightenment from below.⁴⁹

“Freedom’s Edge” sits at the intersections of debates within Brazilian historiography on manumission and the recent flourishing of studies on Afro-Latin America described above. As a bridge between these two bodies of scholarship that sometimes function as discrete conversations, the dissertation advances the conversations within both fields. The histories presented in this dissertation both contribute to and challenge what we currently know about the history of slavery in Brazil, the Atlantic world, and Afro-Latin America. We are in a moment of rethinking the meanings of agency and the nature of colonial power. The findings of this dissertation are not that slaves had agency or that they resisted; that is assumed from the beginning. Instead, I will offer more nuanced analyses of enslaved peoples’ social experience with the law, their judicial knowledge, and how they related their legal freedom to colonial power. My hope is that this will help to break the cycle in Brazilian historiography of moving between structure, agency, and then either back again or to some mechanical combination of the two. I also hope my methodology, described more below, will help scholars of slavery throughout the Americas better balance a study of enslaved peoples’ lives with the forces of power that conditioned them.

Understanding the Legal Subjectivities of Enslaved People: Methods and Sources

How do we understand enslaved people’s judicial knowledge when the documents we have before us were mediated by literate, lettered third parties? Consider for a moment the case of Isabel Francisca de Sousa, an enslaved West African woman who petitioned Queen Maria I from

⁴⁹ Bianca Premo, *The Enlightenment on Trial: Ordinary Litigants and Colonialism in the Spanish Empire* (New York: Oxford University Press, 2017).

Pernambuco in 1780 for her legal freedom. Sousa's petition explained to the queen that she had offered to pay her master well-above her own market value in exchange for her legal freedom, which he refused to grant. Her petition supplicated for a "special order" to force the hand of her master to restore her to "her natural freedom." The composition of the petition, steeped in the language of natural rights, combined with the neat, linear penmanship of her *procurador*, or legal representative, suggests that Sousa depended on the ability and skill of a third party to translate her experience into language legible to the sovereign and its representatives. Without any unmediated window into Sousa's worldview, which is always impossible through the colonial archive, what if anything can her petition tell us?

Subtle clues dropped into the petition allow us, in fact, to conceptualize how Sousa's actions revealed as much about her legal consciousness as the words that comprised her supplication. For instance, the petition emphasizes that Sousa offered money to indemnify her master for freedom. The narration of these details was not arbitrary, for they signaled that the very basis of Sousa's struggles for freedom was her belief in a customary right to self-purchase, that it was within her limited rights as a slave to gain her freedom if she could provide her master with a sum equal to her market value. This was a freedom, the petition asserted, that was "promised to her." As this dissertation illustrates, it was through these very acts of petitioning that customary rights began to approximate positive law, at least in the view of enslaved people, as they established and then invoked precedent.

Petitions like Sousa's, whether made to a local judge or to the crown, produced other corresponding documentation where claims were evaluated, evidence offered, and opinions

exchanged.⁵⁰ From the response by Pernambuco's governor, which included a letter of freedom granted to Sousa, we learn that her petition to the queen was part of a two-pronged approach that also included litigation in local courts. This leveraged pressure against her master, who claimed in her letter of manumission that Sousa had gained the "sponsorship of someone who could not be ignored." Might this have been a subdued reference to the queen? A judge? This kind of forum shopping, where enslaved people articulated their claims through the vocabularies of rights, mercy, and protections across different legal avenues, was a broader element of enslaved people's legal strategies in the South Atlantic world. In Sousa's case, it worked. She was freed at a substantially lower price than what she had initially offered under the condition that she maintain a "perpetual silence" on all legal challenges against her former master in the future.⁵¹

The words written into letters of manumission, petitions, and legal suits clearly mattered, but we miss some important indications about how enslaved people navigated their world and built embodied knowledge regarding legal practices if we only set out to "recover" their unmediated "voices" or their inner lives. Herman Bennett, Saidiya Hartman, Marisa Fuentes, and Gregory Childs remind us that histories of Atlantic slavery centered on "voice" or "recovery" risk reproducing the very logics of violence and substantiation that formed the basis for why the archives were collected and organized in the first place.⁵² Their lives are available to us only through the regulatory mechanisms of their time, even if those mechanisms could be appropriated and utilized by those without power. In exploring how enslaved people participated in the legal

⁵⁰ On the need to supplement legal sources with correspondence and other contextual information not made for the "public record," see Joanne Bailey, "Voices in Court: Lawyers or Litigants?" *Historical Research* 74 no. 186 (November 2001), 392-408.

⁵¹ AHU-Pernambuco, cx. 138, doc. 10266.

⁵² Bennett, *Africans in Colonial Mexico*, 5; Saidiya Hartman, "Venus in Two Acts," *Small Axe* 12, no. 2 (2008), 1-14; Greg L. Childs, "Secret and Spectral: Torture and Secrecy in the Archives of Slave Conspiracies," *Social Text* 33, no. 4 (2015), 35-57; Marisa Fuentes, *Dispossessed Lives: Enslaved Women, Violence, and the Archive* (Philadelphia: University of Pennsylvania Press, 2016). See also the special issue of *History of the Present* 6, no. 2 (2016), edited by Marisa Fuentes and Brian Connolly.

sphere to gain their freedom, I am sensitive to the insights raised by these scholars. Even as I rely on the colonial archive to narrate the lives and experiences of enslaved people from fragments scattered across the Atlantic, I employ a critical approach to the archive that, following Ann Laura Stoler, sees “archiving as process, rather than archives-as-things.”⁵³ In particular, I set out to understand how documents related to the legal meanings of freedom—letters of manumission, declarations of revocations, judges’ rulings—came to be produced. Equally important, I want to understand how enslaved people perceived these dynamics of the “archive as process” in their struggles for legal freedom.

I conceptualize the range of legal and notarial documents that form the evidentiary base of this dissertation as generated, rather than authored or written. Enslaved people did not write petitions, affidavits, or freedom letters themselves, but their imprint on the production of those kinds of documents transcended the words that made them up. The problem of voice inevitably complicates any analysis of claims-making because the intervention of a third party (the individual who wrote the petition, produced court documents, etc.) added yet another layer of subjectivity to the final product. Because of this, Kathryn Burns cautions us against attributing “too much pure ‘voice’ or legal savvy to petitioners.”⁵⁴ I agree that the issue of voice should always be approached with restraint for the reasons described above, but I push back against the notion that “legal savvy” is measured by petition- or court-writing. Legal savvy, I would argue, was as much about what happened around the production of the petition as the petition itself. This included enslaved peoples’ capacity to shrewdly mobilize representatives (including disinterested scribes and legal

⁵³ Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton: Princeton University Press, 2009), 20.

⁵⁴ Kathryn Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham: Duke University Press, 2010), 133-134; Russell-Wood, “‘Acts of Grace,’” 311. My reading of these petitions is sensitive to these cautions, but it is also careful to not see these petitions as so mediated by a third party that they cannot have anything to tell us about slaves’ views on manumission or the law.

representatives) to write impassioned claims on their behalf, their use of public coffers to safely deposit money for their manumission to strengthen the claims behind a petition before it was written, and forum shopping, to name but a few examples. Savvy may have even meant strategically knowing when it was beneficial to step back from imposing influence on a document and to leave it in the hands of the representative.⁵⁵ In this way, illiterate slaves in Brazilian society found ways to use “practical writing to make themselves heard.”⁵⁶ Legal literacy was more than the comprehension of the written word, and my approach to the archive reflects that.

Historians of colonial Brazil share some frustration because many local sources generated by enslaved people—civil suits and petitions, for instance—have not survived the passage of time, have disappeared, or still face precarious conditions.⁵⁷ There are preservation projects, such as the Slave Societies Digital Archives program at Vanderbilt University and the Endangered Archives Program at the British Library, that are undertaking the important work of digitally preserving fragile and at-risk records from the Americas and Atlantic Africa. Tragedies of the past have also placed limits on what is available. The Lisbon earthquake of 1755 destroyed a wealth of documentation about Portugal and its empire in the centuries before. In 1791, a fire broke out in the urban center of Rio de Janeiro that destroyed post-mortem inventories, testaments, criminal records, and other judicial and notarial documents. This fire also destroyed records of the municipal council dating back to the earliest Portuguese settlements in what became Rio de Janeiro. More recently, in 2018, a fire destroyed major collections of the Museu Nacional, many of which related to African history and trans-Atlantic diplomatic exchanges. What this means is

⁵⁵ I make this point because Burns uses the hypothetical example of subalterns relying on others to produce their documents as indications of their lack of agency in the matter. What if we saw that as a strategic choice rather than a limitation?

⁵⁶ Sandra Lauderdale Graham, “Writing from the Margins: Brazilian Slaves and Written Culture,” *Comparative Studies in Society and History* 40, no. 3, 611-636.

⁵⁷ João Fragoso, “Efigênia Angola, Francisca Muniz forra parda, seus parceiros e senhores: freguesias rurais do Rio de Janeiro, século XVIII. Uma contribuição metodológica para a história colonial,” *Topoi* 11, no. 21 (2010), 74.

that those records in the Arquivo Nacional, the Biblioteca Nacional, and the Arquivo Geral da Cidade do Rio de Janeiro represent only a sample of the kinds of documents from the eighteenth century. Very often, I encountered references to enslaved litigants in notary books or correspondence, but I could not find their cases.

Manumission letters are unquestionably the most valuable source for the study of legal freedom. These notarized documents were the primary mechanism through which slave owners released slaves from their dominion. Studies of these freedom letters have enabled us to more deeply understand the demographic profiles of manumitted slaves, and more generally, changes in manumission practices over time. These studies have also helped us understand the limits of manumission practices, highlighting how power, coercion, negotiation, gender, and sexuality shaped the complicated and uneven paths to freedom.⁵⁸ As I delved into the ledgers of Rio's notaries during my research period, I felt that each individual freedom letter and the actors who negotiated them had their own stories to tell. I organized a sample of four hundred and fifty-three manumissions from late eighteenth-century Rio de Janeiro into a database and then further separated the manumitted by different variables (e.g., type of manumission, gender, birthplace, and so on).⁵⁹

After close readings of the manumission letters and then compiling them into a database, I was surprised by the incidence of conditional manumissions. From my sample, one of every three

⁵⁸ Schwartz, "The Manumission of Slaves in Colonial Brazil"; Mieko Nishida, "Manumission and Ethnicity in Urban Slavery: Salvador, Brazil, 1808–1888," *Hispanic American Historical Review* 73, no. 3 (1993): 361–391; Kathleen J. Higgins, "Licentious Liberty" in a Brazilian Gold Mining Region: *Slavery, Gender, and Social Control in Eighteenth-Century Sabará, Minas Gerais* (University Park: Pennsylvania State University Press, 1999); Sweet, "Manumission in Rio de Janeiro, 1749-1754"; Mariana L.R. Dantas, *Black Townsmen: Urban Slavery and Freedom in the Eighteenth-Century Americas* (New York: Palgrave Macmillan, 2008);

⁵⁹ My samples come from 1780-1783 and 1797-1799. Because of unforeseen closures at the Arquivo Nacional, I had limited time with the notarial ledgers and worked with digitized copies available on their in-house computers. The years represented in my sample form two periods when I had access to a consistent run of notary books across two to three years.

manumitted slaves obtained a conditional manumission. In other words, their freedom was contingent, and most commonly, on continued service to a master until the death of the master. I was surprised because historians already recognize the limits of manumission in colonial society; however, here was one-third of an already limited population who could hope for at best a future freedom, after the death of their master. I came to see these letters of manumission as instruments of power, and nowhere was this clearer than in these contracts for future freedom. My approach to the letters of manumission, and more specifically those deemed conditional, is to read them as a significant terrain upon which enslaved people and slave owners defined, contested, and deliberated the meanings of mastery, the legal definitions of gratitude, the limited rights of freed people, and the mutual obligations set into motion by the manumission process.⁶⁰ These letters of freedom represented one moment in the long struggle for legal freedom, not its apex.

Court cases involving enslaved litigants who sued for their legal freedom form an important, but trickier, part of my evidentiary base. Many civil suits and petitions initiated by enslaved people in Rio de Janeiro cannot be located in the city's local archives. I came across just as many, if not more, references to enslaved people who sued their masters than I did actual surviving suits in the archives. There are several reasons for this. Much documentation has been lost or destroyed. Legal documents were also exchanged between judges and other colonial officials in Brazil and Portugal, dispersing them throughout the Atlantic. To locate the extant sources, I began by requesting from Brazil's Arquivo Nacional any court cases in which the plaintiffs or defendants had one or two names listed—something that would indicate the possibility

⁶⁰ This resonates with other studies of freedom and the law, including Roberto Guedes, "A amizade e a alforria: um trânsito entre a escravidão e a liberdade (Porto Feliz, SP, século XIX)," *Afro-Ásia* 35 (2007), 83-141; McKinley, *Fractional Freedoms*; Rachel O'Toole, "The Bonds of Kinship, the Ties of Freedom in Colonial Peru," *Journal of Family History* 42, no. 1 (2017), 3-21; Adriana Chira, "Affective Debts: Manumission by Grace and the Making of Gradual Emancipation Laws in Cuba, 1817-68," *Law and History Review* 36, no. 1 (2018), 1-33.

they were enslaved or free and of African descent. In Lisbon, home to the *Casa da Suplicação*, the empire's high appeals court, I followed the citations provided by Fernanda Aparecida Domingos Pinheiro involving petitions from Black brotherhoods on behalf of enslaved people.⁶¹ Piecing together this litigation from Brazil and Portugal helped to create a clearer picture of how enslaved litigants and petitioners engaged with and understood the law. Still, the challenge of these archives, combined with the insight of African diaspora scholars who look beyond the court room to teach us about the law, prompted me to look elsewhere for sources on enslaved people in the legal realm.

As enslaved people negotiated with slave holders or petitioned judges to obtain their letters of manumission, they created a remarkably rich record of their struggles outside of the courts. This dissertation also relies on a host of other documentation generated by enslaved people that help illuminate the meanings of legal freedom and the broader ramifications of legal struggles within the Atlantic world. Petitions, as mentioned above, are used throughout my analysis. For this, the massive collection of the Arquivo Histórico Ultramarino proved invaluable. I also examine other types of sources, such as laws, decrees, colonial correspondence, witness testimony, baptism records, and last will and testaments. These sources not only helped me fill in important gaps in the narratives of individual lives, they also helped me get a feel for how colonial authorities discussed manumission and enslaved peoples' presence in the courts.

Chapter Outline

"Freedom's Edge" is comprised of five chapters. Chapter one examines enslaved peoples' experience with conditional manumission, the conferral of legal freedom with an explicit obligation or arrangement attached to that freedom. Some slave owners obligated their former

⁶¹ Fernanda Aparecida Domingos Pinheiro, "Em defesa da liberdade: libertos e livres de cor nos tribunais do Antigo Regime português (Mariana e Lisboa, 1720-1819)," (Ph.D. Diss., Universidade Estadual de Campinas, 2013).

slaves to maintain “honorable” marriages, pay down their debts, train new slaves, or perform continual masses for the salvation of their soul. More commonly, however, conditional manumissions obligated enslaved people to labor in the service of their master until the day of their master’s death, when their legal freedom would finally become valid. This created a group of individuals whom notaries called “future libertos” (future freed persons), some who waited a few years until their masters’ death, others a few decades. Because Portuguese law conceived of manumission as a donation, slave owners expected that, like any recipient of a gift, their conditionally manumitted slaves would perform gratitude. Yet the meanings of gratitude and the question of rights for future libertos was a matter of contestation. In this chapter, I perform close readings of letters of manumission to argue that future libertos used the letter of manumission as a contract to inscribe rights and protections for themselves within a form of manumission that was clearly coercive and exploitative.

Chapter two considers how people of African descent in Brazil interpreted and then transformed imperial discourses and laws emerging from Portugal. The chapter opens by asking why enslaved people believed they were emancipated with the arrival of the Portuguese Court in 1808. I focus my explanation on the genealogy of one law addressing slavery in Portugal: the abolition of the African slave trade to Portugal in 1761. Viewing Portugal as free soil, enslaved people travelled to Portugal—as sailors, as maritime fugitives, and as servants accompanying their masters—with the hopes that setting foot in Lisbon would liberate them. In Lisbon, enslaved people found impressively organized intermediaries within the city’s Black Catholic brotherhoods who helped them petition and sue for their freedom. This chapter illustrates that Portugal—as free soil, as seat of the empire, and as the home of monarchical authority—figured prominently in the legal subjectivities of enslaved people in Brazil and throughout the Atlantic world.

Chapter three explores petitions from enslaved people in Brazil to Portuguese monarchs for “acts of grace.” The conventional narratives for key shifts in the governance of slaves and the application of law to their lives have often narrowly been reduced to either economic factors that demanded new political-juridical administrative organization, or to a “Christian theory of slave governance” propagated by Jesuit and other religious reformers.⁶² Through an exploration of royal petitions, I offer a new explanation, one that centers enslaved peoples’ legal actions. In their petitions to kings and queens, enslaved people supplicated for mercy, requested special privileges to force the hand of masters to free them or their family members, and invoked precedents set in some cases over one hundred years earlier. I show how these petitions fashioned expansive interpretations of existing laws and proposed new ones that conceived of manumission as a customary right. I close the chapter looking at one petition from the Amazonian captaincy of Maranhão that resulted in a codified, albeit short-lived, law affirming the rights of enslaved people to their manumission.

Chapter four is about enslaved people who were exiled and banished by their masters as retribution and punishment. Enslaved people in Brazil, as in the rest of the Americas, constantly feared sale and separation from kin and community. The extensive transits of criminal exile and the routes of the slave trade facilitated slave owners’ spatial exercise of their power. In turn, enslaved people crafted various legal strategies in order to stop their impending departure or to seek their return. Manumission was central to these strategies because enslaved people offered to purchase their manumission in order to remain in their communities, effectively indemnifying their owners. This chapter argues that enslaved people defined exile, banishment, and sale as *sevícias*; therefore, they were worthy of the customary right to purchase their manumission. Such a position

⁶² Rafael de Bivar Marquese, *Feitores do corpo, missionários de mente: senhores, letrados e o controle dos escravos nas Américas, 1660-1860* (São Paulo: Companhia das Letras, 2004), 46-68.

had its origins in seventeenth-century Lisbon, where two Black brotherhoods won privileges to intervene in the sale of slaves to Brazil by offering slave owners money for their manumission.

The fifth and final chapter of this dissertation contemplates how enslaved families collectively navigated and experienced civil litigation for their freedom. The chapter centers on one of the most extraordinary but challenging cases that I encountered during my archival research in Brazil. The case involved fifteen enslaved descendants of an Angolan woman named Paula who sued their master for their freedom in Rio de Janeiro, claiming they were “born from a free womb.” They asserted that Paula was living in Luanda, Angola as a freed woman when she was kidnapped, enslaved, and transported across the Atlantic in 1753. Their legal case lasted sixteen years, spanned six hundred pages of records, and gathered testimony from Rio de Janeiro and Luanda. Their case was certainly exceptional. Yet in analyzing the experiences of Paula’s descendants in the courts, I detail the creative ways enslaved people transformed legal procedural matters, constructed genealogies of ancestry, invoked their collective memory, and mobilized their household organization to defend against the violence inflicted by slavery and its legal groundwork.

CHAPTER 1

Contracts of Freedom, Statements of Mastery: Future Libertos, Power, and Conditional Manumission

On July 30, 1799, after a short boat ride across the Guanabara Bay from São Gonçalo to the city of Rio, Pedro Benguela and Anjelica stood with their master before a notary. Teodoria Pereira, a recent widow of José Magalhães, requested that the notary draft two letters of manumission for her slaves. In the months leading up to that Sunday afternoon, both Pedro and Anjelica used the occasion of her husband's poor health to negotiate their manumission, hoping that he might free them on his death bed. Before dying, José Magalhães accepted Anjelica's request, freeing her unconditionally. Anjelica's mother, Maria Angola, was named in her freedom letter. But her father was not, leaving open the possibility that her unconditional freedom was an implicit acknowledgment of his paternity. Regarding Pedro's request, José Magalhães did not arrive at a decision before his death. Pedro continued to plead with Teodoria Pereira [*"tanto lhe suplicou"*] for his legal freedom to honor her deceased husband. She finally agreed to it, and on that day in July of 1799 prepared to grant two freedom letters to her slaves.

But there was an important caveat to their freedom, one that applied to one-third of all slaves manumitted during the same period.¹ Their freedom was conditional. Pedro and Anjelica were obligated to continue serving Teodoria Pereira "while she is alive." Only after her death, "from the day of her obituary forward," would they be allowed "to be freed and to go where they please." As such, their letter of manumission approximated a contract of freedom more than an immediate declaration of it. More implicitly, it was also a statement of Teodoria's mastery. Teodoria Pereira clearly had her own interests in mind. As a widow, she could continue to rely on

¹ Table 1.5.

her slaves to help bring in income and perform domestic chores, all the while keeping the promise of a future freedom in front of them. Perhaps she informed Pedro that his best chance at freedom would come after her death. She was more reluctant to unconditionally release Anjelica from enslavement. Teodoria Pereira admitted that her husband had unconditionally manumitted Anjelica, but she invoked her own property rights in Anjelica. Thus, “for the half of Anjelica that belongs to her,” Teodoria Pereira turned Anjelica’s freedom from unconditional to conditional. In placing conditions on Pedro and Anjelica’s freedom, Teodoria Pereira aligned herself with thousands of other slave owners in the Brazil of her time who profited from manumission. A challenging question emerges: what did Pedro and Anjelica think about their future freedom?²

This chapter explores the experiences of conditionally manumitted people—or “future libertos” as they were known by notaries—like Pedro and Anjelica. It takes as its starting point the tensions between the most exploitative and coercive features of conditional manumission, and the fact that enslaved people agreed to and accepted those terms. I analyze a sample of 147 conditional freedom letters registered in the first office of Rio’s notary between 1780-1783 and 1797-1799.³ I also look at several instances of litigation in which conditionally manumitted individuals sought greater rights from their masters, as well as one case involving an enslaved Mina woman named Joaquina that captured the complete breakdown of power and subservience resulting from conditional manumission. When I first worked with this sample, I was interested in defining whether these future libertos were considered freed or enslaved before the law. I realized that the search for a definitive answer missed some of the key ways that power functioned within conditional manumission. It also missed how the meanings and boundaries of slavery and freedom

² ANRJ, PON, liv. 183, 35-36.

³ Closures and delays at the Brazilian National Archives in 2016 limited my sample to digitized notary books. The years I chose represent two moments that I could get consecutive years from these digitized sources.

evolved in the minds of future libertos with the passage of time. Thus, this chapter instead explores how enslaved people confronted the liminal ambiguous status of conditional manumission with inventive notarial and judicial strategies that inscribed their own understandings of slavery and freedom, and countered the coercion intrinsic to manumission. As they negotiated rations of food and medicine, access to clothing and shoes, and defined the limits of mastery, enslaved people moving from slavery to freedom confronted the precarities engendered by manumission.

The chapter begins by discussing the freedom letters from my sample within the context of Rio de Janeiro at the turn of the nineteenth century and in relation to broader manumission practices. Next, I look more closely at the text of conditional manumissions to show how slaves and masters negotiated conditional manumission. Slave owners used freedom letters to define and even widen the scope of their mastery. They also reasserted their expectations of future libertos. Meanwhile, future libertos were not passive observers in the process. Whether in the text of the manumission or in conversations in the home, they expressed their own understandings of what conditional manumission meant, not only for themselves, but also for their family and children. But this was a protracted process, as I show with the example of Maria das Virgens. Her story highlights with great detail the winding paths to even just notarizing a manumission. I also consider examples where masters imposed social and religious obligations on their slaves, such as the maintenance of “honorable” marriages and the performance of masses for their masters’ deceased soul. The final section of the chapter explores what happened when conditional manumissions fell apart. Between the notarization of conditional manumissions and the deaths of slave owners, the forces of mastery and the balance of power swayed, as marginal freedoms for slaves expanded into the complete loss of authority for some slave owners.

As the opening chapter, the analysis that follows sets the stage for the dissertation in two key ways. First, an exploration of conditional manumission helps us better understand the limits of legal freedom more generally. Indeed, thinking of freedom as conditional offers a helpful metaphor for understanding the precarity of manumission and being freed in society. To a certain extent, all manumissions were conditional. By law, slave owners could revoke the manumission they conferred or impose informal conditions not listed in manumission texts. Legal freedom was always conditioned by power in slave society, and often contingent on the kinds of records one had to prove their freedom. Second, this chapter helps us understand how even under intense imbalances in power, enslaved people still imposed some influence on the record of their legal freedom. They employed notarial and judicial strategies to achieve even marginal freedoms, and demonstrated their awareness that slave owners' power could be circumscribed in ways beneficial to their already precarious lives.

An In-between Population

Slaves gaining their legal freedom in the eighteenth century lived in an evolving colonial world. Like other Atlantic entrepôts in that period, Rio de Janeiro and its rural parishes around the Guanabara Bay underwent myriad transformations.⁴ Since 1763, when Rio de Janeiro became the viceregal capital of Brazil, the city gained a prominent political and economic role in the Portuguese Empire. Growing connections with Angola made Rio de Janeiro the busiest disembarkation port for enslaved Africans in the Americas.

⁴ See appendices A and B.

Table 1.1: Population of the City of Rio de Janeiro in 1780

Parishes	Free	Slaves	Fogos (Residences)	Total
Sé Catedral	6,594	3,343	2,072	9,937
Candelária	5,093	5,274	1,329	10,367
São José	8,065	5,423	1,244	13,488
Santa Rita	2,587	2,767	1,167	5,354
Total	22,339 (57%)	16,807 (43%)	5,827	39,146

Source: "Mappa geral das cidades, villas e freguezias que formão o corpo interior da capitania do Rio de Janeiro, com declaração do numero de seus templos, fogos, etc.," *Revista Trimensal do Instituto Histórico Geographico e Ethnographico do Brazil XLVII* (1884), 27-29.

Table 1.2: Population of the City of Rio de Janeiro in 1799

Parishes	Whites	Slaves	Freed People		Total
			<i>Pardos</i>	<i>Pretos</i>	
Sé Catedral	5,759	3,372	1,315	1,041	11,487
Candelária	4,077	4,636	440	330	9,483
São José	2,305	3,584	1,384	1,423	8,696
Santa Rita	6,750	2,991	965	1,691	12,397
Convents	682	403	123	0	1,208
Totals	19,573 (45%)	14,986 (35%)	4,227 (10%)	4,485 (10%)	43,271

Source: "Resumo Total da População que existia no anno de 1799..." *Revista do Instituto Histórico e Geográfico Brasileiro XXI* (1858), 216-217.

Note: There is some inconsistency in how scholars cite the year of this census, which has been dated either 1779 or 1799 by different historians. I have located no census for 1779, and I believe that the correct year is 1799. This table also includes corrected totals from original errors in the published version.

During the period discussed in this chapter (roughly 1780s to 1800s), although slaves comprised a significant group of urban and rural residents, the population of freed people (*libertos*) grew to a rate that, as historian Silvia Hunold Lara notes, “presented, without a doubt, a disruptive political potential.”⁵ According to a 1780 census (Table 1.1), slaves comprised forty-three percent of the overall urban population. In this census, however, non-slave residents were grouped as “*livres*,” giving no clear sense of how many freed persons lived in the city. The term *livre* signified someone born free, while *forro* and *liberto* signified someone freed from slavery. Until the turn of the eighteenth century, censuses rarely distinguished between the two “free” categories, lumping all together as *livre*. If we conservatively estimate that a small percentage of those categorized as “*livres*” were free or freed blacks, we can conclude that nearly half of Rio de Janeiro (perhaps more) was comprised of people of African descent, both freed and enslaved.

Nearly twenty years later, one out of every five people in the city was a freed person of African-descent (*liberto* or *forro*). If we consider only the population of African-descent, *libertos* comprised thirty-seven percent. The enslaved population comprised thirty-five percent of the overall population within the city (an eight percent decrease since 1780). The decreased population of slaves between the two censuses and the inclusion of *liberto* as a category in the 1799 census suggests that across these two decades an increase in manumissions prompted authorities to more closely track the growth of the freed population, their color (*pardo* or *preto*), and which parishes they lived in. Although the percentage of *libertos* probably fluctuated around twenty percent for a few decades, by 1849, just before the abolition of the African slave trade, the *liberto* population

⁵ Silvia Hunold Lara, *Fragmentos Setecentistas: Escravidão, cultura, e poder na América Portuguesa* (São Paulo: Companhia das Letras, 2007), 279.

was only five percent, owing to a combination of political, economic, and social transformations within Brazil since its independence in 1822.⁶

Table 1.3: Birthplace, Gender, and Residence of Manumitted Slaves, 1782-1784 (n=163)

	African-born			Brazilian-born			Sum
	Men	Women	Total	Men	Women	Total	
Urban	8	25	33	13	36	49	82
Rural	6	7	13	23	27	50	63
Not Identified	2	4	6	4	8	12	1
Totals	16	36	52	40	71	111	163

Source: ANRJ, PON, Livs. 153, 155, 156.

Note: Removed 1 “unclear” entry which has birthplace but no gender. Removed 5 entries of unknown birthplace and location.

Table 1.4: Birthplace, Gender, and Residence of Manumitted Slaves, 1797-1799 (n=280)

	African-born			Brazilian-born			Sum
	Men	Women	Total	Men	Women	Total	
Urban	22	44	66	20	49	69	135
Rural	14	18	32	28	38	66	98
Not Identified	12	7	19	13	15	28	47
Totals	48	69	117	61	102	163	280

Source: ANRJ, PON, Livs. 179, 181, 182, 183. Note: Four entries lacking identifiable birthplace and location were removed.

Manumission patterns rarely reflected demographic realities. If they did, as James Sweet reminds us, “Africans and men would have figured prominently among Rio’s freed.”⁷ In late-

⁶ Mary Karasch, *Slave Life in Rio de Janeiro* (Princeton: Princeton University Press, 1987), 66, table 3.6.

⁷ James Sweet, “Manumission in Rio de Janeiro, 1749-1754: An African Perspective,” *Slavery and Abolition* 24, no. 1 (2003), 159.

colonial Rio de Janeiro, despite the constant introduction of new Africans into the city, Brazilian-born slaves continued to gain their legal freedom at higher rates. Furthermore, among Brazilian-born slaves, women were manumitted at rates notably higher than African-born women. Brazilian-born slaves are believed to have developed stronger affective bonds with their masters and their families. References to slaves being born and raised in their masters' houses abound in letters of manumission. The exercise of sexual power, subtle or explicit acknowledgments of paternity, and a general fear of a large, freed population of African men undoubtedly shaped slave owners' approaches to manumission, even if all slaves, regardless of birthplace, gender or color, pressed their masters to confer their legal freedom. Africans, on the other hand, faced greater disparities in relation to manumission. Although the rate of manumission among Africans gradually increased throughout the eighteenth century, African men still faced the cold reality that they were the least likely to achieve legal freedom in their lifetime.⁸

Table 1.5: Forms of Manumission, 1782-1784 and 1797-1799 (n=453)

	Paid	Conditional	Conditional + Paid	Unconditional	Rectification	Total
1782-1784	68	38	12	50	1	169
1797-1799	114	91	6	70	3	284
Total	182 (40%)	129 (28%)	18 (4%)	120 (26%)	4 (< 1%)	453

The paths to legal freedom took various forms in colonial Rio de Janeiro. Historians of slavery and freedom typically identify three forms of manumission that existed in colonial Brazil:

⁸ For example, James Sweet's sample in Rio de Janeiro from 1749-1754 show that 24% of those who were manumitted were African. Luciano de Felice Abeid's sample from 1789-1793 shows that 40% of those who were manumitted were Africans. See Luciano de Felice Abeid, "Notas sobre as alforrias no Rio de Janeiro de fins do século XVIII," (B.A. Thesis, Universidade Federal do Rio de Janeiro, 2002), 20. I would like to thank Manolo Florentino for providing me with a copy of this thesis.

paid, conditional, and unconditional. To illustrate the range of possibilities during the manumission process, I have added two separate categories, “Conditional and Paid” and “Rectification,” for those cases when monetary and non-monetary conditions were written into manumission letters. Rectifications occurred when a previously-executed manumission was revised, revoked, or when new stipulations were added to the original record.⁹

Paid manumissions, whether through self-purchase or the aid of a third party, represented forty percent of all manumissions, forty-four percent if we include those with a separate condition attached. In these cases, slave owners set a price for the value of their slaves, allowing them to gather savings to pay at once or in parceled payments (*coartação*). The relatively stable prices of slaves in the late colonial period and access to the local slave market in Valongo enabled slaves to seize opportunities to negotiate payments for freedom.¹⁰ Paid manumissions offered slaves seeking their legal freedom the greatest opportunity to free themselves by indemnifying, perhaps incentivizing, their owners, who then reinvested that same cash back into the slave market or saved the money to expand their estate. Sometimes, slaves were manumitted with no obligations, financial or otherwise. These unconditional manumissions comprised twenty-six percent of all manumissions.

One out of every three slaves who gained a letter of freedom in the period had an explicit and recorded condition attached to their freedom. It is likely that slaves and masters made informal agreements outside of notarial records that further conditioned the path towards freedom. Across the whole of colonial Brazil, conditional manumissions represented anywhere between fourteen

⁹ On a more expansive categorization of manumissions, see also Ian Read, *The Hierarchies of Slavery in Santos, Brazil, 1822-1888* (Stanford: Stanford University Press, 2012), 159-161.

¹⁰ Manolo Florentino, “Alforrias e etnicidade no Rio de Janeiro oitocentista: notas de pesquisa,” *Topoi* 3, no. 5 (2002), 16-18, and graph 1.

and forty-eight percent of all manumissions.¹¹ When we consider all manumissions that involved some type of condition in Rio de Janeiro during this period, we see that these amounted to thirty-four percent of all freedom letters, which is slightly higher than those rates in Porto Alegre, Bahia, and Sabará. Because historians have pursued the structural links between manumissions, slaveholding, and the slave trade, some have focused attention on paid manumissions at the expense of conditional manumissions; however, these numbers suggest that conditional manumissions must be understood as a significant path towards freedom at a time when stable prices allowed greater opportunity for self-purchase.

Table 1.6: Conditions Listed in Manumissions, 1782-1784 & 1797-1799 (n=147)

	<u>Urban</u>	<u>Rural</u>	<u>Not Listed</u>	<u>Total</u>
<u>Serve for Life</u>	60	65	2	127
<u>Religious Act</u>	0	1	1	2
Say <i>Missas</i>	0	1	1	
<u>Serve for Life + Religious Act</u>	1	4	0	5
Say <i>Missas</i>	1	4	0	
<u>Other</u>	8	4	1	13
Marriage	5	0	0	
Raise Child	1	1	0	
Travel	1	0	1	
Defined Time	0	2	0	
Pay debts	0	1	0	
Train New Slave	1	0	0	

¹¹ James Patrick Kiernan, “The Manumission of Slaves in Colonial Brazil: Paraty, 1789-1822,” (Ph.D. Diss., New York University, 1976), 117; Mariana L.R. Dantas, *Black Townsmen: Urban Slavery and Freedom in the Eighteenth-Century Americas* (New York: Palgrave Macmillan, 2008), 105; Read, *The Hierarchies of Slavery in Santos*, 159; Stuart Schwartz, “The Manumission of Slaves in Colonial Brazil,” *The Hispanic American Historical Review* 54, no. 4 (1974), 631; Gabriel Aladrén, “Liberdade Negras nas Paragens do Sul: Alforria e Inserção Social de Libertos em Porto Alegre, 1800-1835,” (Ph.D. Diss., Universidade Federal Fluminense, 2008), 43; Paulo Roberto Staudt Moreira, “Estudo Introdutório,” in *Que com seu trabalho nos sustenta: As Cartas de Alforria de Porto Alegre (1748-1888)*, eds. Paulo Roberto Staudt Moreira and Tatiani de Souza Tassoni (Porto Alegre: EST Edições, 2007), 49.

While many historians have viewed paid manumissions as more finite and accessible, the other side of the coin revealed that gathering savings in urban or rural regions for sometimes steep manumission prices was its own challenge. As chapter three of this dissertation shows, slaves still struggled to convince obdurate slave owners to accept payment in exchange for freedom. Since we can imagine that slaves were not forced to accept their freedom, some saw conditions as an alternative path to freedom. Some evidence supports this claim that slaves viewed conditional manumission as a route, albeit onerous, towards legal freedom. In June of 1783, for example, a *pardo* slave and shoemaker used conditional manumission as a bargaining tool against the steep price that accompanied someone with his occupation. As his manumission letter alleged, “the said slave is worth more than 150\$000 *réis* because he is a shoemaker, and for this reason he has requested that his master place the condition to serve.”¹²

Table 1.7: Color and Ethnicities Listed in Conditional Manumissions

Brazilian-born (65%)	African-born (34%)	Not identified (< 1%)
Parda/o 22 Crioula/o 49 Mulata/o 11 Cabra 14	Angola 13 Benguela 17 Congo 6 Mina 8 Rebola 1 Gentio de Guiné 1 Ganguela 2 Cassange 1 Unknown African-born 1	Unknown 1

Note: In this table, I have changed any diminutive identifications to their root word to organize ethnicity and color. For example, when someone was described as *crioulinha/o*, I rendered this in the table as *crioula/o*. *Mulata/o* and *cabra* were variations on the term *parda/o*. In manumission records, *mulata/o* was almost exclusively reserved for children.

¹² ANRJ, PON, Liv. 155, 107-108.

Birthplace, color, and gender factored heavily in the experience of manumission. More enslaved women born in Rio de Janeiro gained conditional manumissions (37%), while men, and especially those born in Africa, were manumitted at lower rates (16%) despite their overall majority in the slave population. Among those whose legal freedom was conditional, sixty-five percent were Brazilian-born, while thirty-four percent were born in Africa, primarily West Central Africa. *Crioulos*, individuals born to African parents in Brazil, were the largest group to gain their manumissions. Given the preference among slave owners during the colonial period to manumit Brazilian-born slaves, it is not surprising that they were the largest group to receive their manumission. West Central African slaves predominated among those conditionally manumitted individuals born in Africa. At the end of the eighteenth century, Mina slaves from West Africa remained an ethnic minority in Rio de Janeiro and the southern captaincies in Brazil; however, they were also conditionally manumitted at a higher rate proportional to their population in the city.¹³ Of the eight Mina Africans conditionally manumitted, seven were women. Between *crioulos* and *pardos* (those with parents of mixed African and European descent), there was a largely even rate of conditional manumissions.

Given the size and importance of Rio de Janeiro as an Atlantic port city, the connections between urban, semi-urban, and rural areas of the captaincy enabled more balanced manumission patterns across geographic space than in other Brazilian regions.¹⁴ While slaves living and working in urban areas generally had greater access to manumission, those outside of Rio's four urban

¹³ On Mina slaves in Rio de Janeiro, see Mariza de Carvalho Soares, *People of Faith: Slavery and African Catholics in Eighteenth-Century Rio de Janeiro* (Durham: Duke University Press, 2011); Flávio Gomes, "'Atlantic Nations' and the Origins of Africans in Late-colonial Rio de Janeiro: New Evidence," *Colonial Latin American Review* 20, no. 2 (2011), 213-231; Flávio Gomes, "The Atlantic Demographics of Africans in Rio de Janeiro in the Seventeenth, Eighteenth, and Nineteenth Centuries: Some Patterns Based on Parish Registers," *História, Ciências, Saúde-Manguinhos* 19, no. 1 (2012), 81-106.

¹⁴ Nielson Rosa Bezerra, "Mosaicos da Escravidão: identidades africanas e conexões atlânticas do Recôncavo da Guanabara (1780-1840)," (Ph.D. Diss., Universidade Federal Fluminense, 2010).

parishes also had opportunities available to them, as tables 1.3 and 1.4 illustrate. Yet there were limits to this. Between rural and urban areas, Brazilian-born slaves were manumitted nearly equally. However, African-born slaves, especially men, living in urban parishes had a greater chance to save for and negotiate their manumission.

Not all conditional manumissions conferred legal freedom in the same way. Most conditional manumissions, as we will see later, were notarized agreements of a future freedom to take effect after a pre-determined deadline, or more indefinitely, after the death of one's master. Other conditions granted immediate legal freedom to begin on the day that a notary executed the manumission.

Defining Enslavement, Negotiating a Future Freedom

In the late colonial period, a future legal freedom dependent on continued service to a slave owner was the most common conditional manumission.¹⁵ Yet, what did it mean to serve one's master in this way? Was a conditionally manumitted person considered freed, enslaved, or something else? Were children born after a woman's conditional manumission but before a master's death considered free? These questions divided legal scholars in the nineteenth century, and historians since the mid-1970s, in no small part because the experience of conditionally manumitted persons confound and transcend the dichotomous slave/free distinction which for so long was historians' frame of reference. Portuguese law made no provisions for determining the legal status or obligations of conditionally manumitted slaves. Nineteenth-century Brazilian jurist and abolitionist Perdigão Malheiro, in his tome on slavery in Brazil, turned to Roman slave laws, excavating the Latin term *statuliber* to describe conditionally freed people. In Brazil, Malheiro

¹⁵ Table 1.6.

argued, the statuliber was a “liberto, although conditionally, and no longer strictly a slave.” Nearly a century later, Kátia de Queiros Mattoso, evidently influenced by Malheiro’s view on the statuliber, agreed that they were “always considered free before the law.” In opposition to these views, Mary Karasch unequivocally states that slave owners “clearly treated conditionally manumitted slaves as slaves.”¹⁶

Somewhere between legally freed or enslaved lay a more complicated reality: the ambiguous nature of conditional manumissions created divergent and sometimes conflicting experiences and views on the spaces between slavery and freedom. For every example of a conditionally manumitted person treated as freed, there seems to be another that contradicts it. Therefore, it is more appropriate to conceive of contracted terms of enslavement leading to freedom as subject to wide-ranging and diverse circumstances that changed over time and place, what Sidney Chalhoub calls the “politics of ambiguity.”¹⁷ Rather than seek to answer the unequivocal status of conditionally freed people before the law’s eyes, it is more appropriate to work through the tensions, contradictions, and subtle forms of power and negotiation that move us beyond a strict slave/free dichotomy. Doing so also requires us to put aside statuliber for another term more commonly used in the late eighteenth century.

Conditionally manumitted slaves were, in the words of notaries, “future libertos.”¹⁸ When Rita, a crioula slave living in the city of Rio de Janeiro, was conditionally manumitted, she, like others, was only free “from the day of [her master’s] obituary forward.”¹⁹ The recognition of a

¹⁶ Perdigão Malheiro, *A Escravidão no Brasil: Ensaio Histórico, Jurídico, Social* (Petrópolis: Editora Vozes Ltda, 1976), 114-12; Kátia de Queiros Mattoso, *Ser Escravo no Brasil* (São Paulo: Brasiliense, 1982), 208; Karasch, *Slave Life in Rio de Janeiro*, 354.

¹⁷ Sidney Chalhoub, “The Politics of Ambiguity: Conditional Manumission, Labor Contracts, and Slave Emancipation in Brazil (1850s-1888),” *International Review of Social History* 60 (2015), 161-191.

¹⁸ This revises Stuart Schwartz’s view that conditional manumissions “created a status of legal freedom but continued bondage.” Schwartz, “The Manumission of Slaves in Colonial Brazil: Bahia, 1684-1745,” 631.

¹⁹ ANRJ, PON, Liv. 182, 91-91v.

future date was a point of fact for these future libertos, so much so that notaries quickly corrected themselves if they did not clarify that a freedom was valid at a future date. In 1797, as he drafted the conditional manumission of Miguel Angola, Rio's notary caught himself mid-sentence, writing that Miguel's freedom took effect "today forward, correction, on the day of [his master's] obituary forward."²⁰ In another example from 1797, a planter from the southeastern edge of Guanabara Bay returned to Rio's notary precisely one year after granting manumission to his slave and godson José because he did not "declare in the original record the condition to serve during his lifetime." His reason, he alleged, was that "he did not want the said crioulo to enjoy his *entire* freedom until after [the master's] death."²¹ Without knowledge of what happened during that year—was the added condition a punishment? a notarial mishap? —the reference to an "entire" freedom suggests that perhaps even José's master recognized the in-betweenness of conditional manumission.

Slave owners used conditional letters of manumission drafted by notaries to define their expectations of future libertos and to lay bare the terms upon which their conditional freedom rested. To be sure, they did not express new or radically different expectations of their conditionally manumitted slaves. Instead, they reiterated the obligations of their slaves and added an incentive to honor those obligations under the threat that their future freedom would be nullified. The common rubric written into conditional manumissions instructed slaves that they were "obliged to serve [their master] as they have until now without contradiction."

In some instances, slave owners included contractual language to define their expectations of slaves before their death. Most commonly, conditional manumissions recorded that slaves were to serve with *zelo, obediência, e satisfação* (zeal, obedience, and satisfaction). Pulocena Maria was conditionally manumitted at the age of eleven with the expectation that until her master's death

²⁰ ANRJ, PON, Liv. 179, 112v-113.

²¹ ANRJ, PON, Liv. 179, 130. For the original, see ANRJ, PON, Liv. 178, 35.

she was to embody those three values.²² Similarly, when a priest in the city freed Manuel Cabrinha and Antonio Congo, they were instructed to show “zeal, obedience, and satisfaction” until his death.²³ Notaries did not always record specific duties or tasks in the texts of these manumissions, suggesting that they were discussed and defined outside the presence of a notary.²⁴ The terms zeal, obedience, and satisfaction captured the spectrum of mastery and slavery. An eighteenth-century dictionary defined zeal as “affectionate endeavor to seek the good, convenience, and honor of someone,” while obedience and satisfaction underscored subjection to the will of a master.²⁵

The text of a conditional manumission, whether including standard clauses or more explicit stipulations on behavior and quality of service, provided slave owners with space to contractually and unambiguously define their power during the conditional term of service. This was underscored by implicit or explicit threats to revoke the promise of a future freedom. In Santo Antonio de Jacutinga in 1797, for example, Maria Angola agreed to serve until her master’s death “with good behavior, fidelity, and obedience,” under the threat that “conducting herself with bad behavior...this freedom will have no effect or vigor, as if it was never conferred, and this is the will of the [manumitter].”²⁶ One priest and slave owner, José da Almeida Escovar, defined the reach of his power in Antonio’s conditional manumission. After declaring that he be served with zeal, obedience, and satisfaction, Escovar clarified that “if the said slave does not obey his master, and does not serve him with promptitude and humility, or should he run away, this freedom will

²² ANRJ, PON, Liv. 183, 71.

²³ ANRJ, PON, Liv. 182, 40-40v.

²⁴ The “livros de registro” are an important exception to this. These books acted as a kind of public archive for all kinds of records. If a manumission was physically written by a slave owner, a newly freed person could take that paper to the notary to have them register it in their records. Copies of these books, which are held in Brazil’s Arquivo Nacional but were not available to me during my research due to closures, sometimes elaborate on specific duties and the conditions of revocation.

²⁵ Antonio de Moraes Silva, *Diccionario da Lingua Portugueza Composto pelo Padre Rafael Bluteau, Reformado e Acrescentado por Antonio de Moraes Silva* (Lisboa: A Officina de Simão Thaddeo Ferreira, 1789), 540.

²⁶ ANRJ, PON, Liv. 179, 9.

have no validity as if it was never conferred, in which case [his master] will be able to punish the slave, sell him, and do with him what he chooses, because this freedom was given under the condition of his death.”²⁷ That slave owners included this language at all suggests they were aware and perhaps fearful that their authority would fracture under conditional manumission.

There was no clear practice for how conditionally manumitted slaves were accounted for in inventories, testaments, or even censuses. For Santos, São Paulo, Ian Read finds that slaves who were conditionally manumitted were later declared slaves in tax and inventory records.²⁸ To prevent future conflicts with their heirs, some slave owners used manumission letters to remove conditionally freed individuals from inventories and from their *terça* or *meação*. Portuguese inheritance law made provisions for the transmission of property across generations, always favoring widows and biological kin. The *terça* (third) was one-third of a testator’s estate to be divided according to their own wishes, rather than as dictated by Portuguese law.²⁹ In 1797, for example, Anna Maria de Oliveira of Santo Antonio de Jacutinga conditionally freed her slave Landigaria under the condition that she accompany and serve her for life, also declaring that “for assurance and safety [of the freedom] the manumitter removes the cost of the said *parda* from her *meação* so that it is not violated by her children and heirs.”³⁰ Slaves were attuned to their inclusion or removal from property inventories that might lead to a future conflict after their master’s death.

²⁷ ANRJ, PON, Liv. 182, 40-40v.

²⁸ Ian Read, *The Hierarchies of Slavery in Santos, Brazil, 1822-1888*, 161

²⁹ Liv. 4, Tit. LXXXII, in Cândido Mendes de Almeida, *Código Filipino ou Ordenações do Reino de Portugal* (Rio de Janeiro: Tipografia do Instituto Filomático, 1870), 911-915. Hereafter *Ordenações Filipinas*.

For more on the *terça* and inheritance more generally, see Mariana Dantas, “Inheritance Practices Among Individuals of African Origin and Descent in Eighteenth-Century Minas Gerais, Brazil,” in *The Faces of Freedom: The Manumission and Emancipation of Slaves in Old World and New World Slavery*, ed. Marc Kleijwegt (Leiden: Brill, 2006) and Alida Metcalf, *Family and Frontier in Colonial Brazil: Santana de Parnaíba, 1580-1822* (Berkeley: University of California Press, 1992).

³⁰ ANRJ, PON, Liv. 179, 89-89v. See also the conditional manumission of Antonia Crioula, conditionally manumitted in 1798, who was inventoried in her master’s father’s inventory, but who is removed from her master’s *terça*. ANRJ, PON, Liv. 181, 83v-84.

Felipe da Fonseca Araújo, discussed later, produced evidence in court to show that even a year before the granting of his conditional manumission, his master did not inventory him or other slaves. His awareness suggests that slaves who agreed to a conditional manumission might have requested their own removal from property inventories.

Conditional manumissions based on service for life presented some pitfalls. Unlike testamentary manumissions, which might be drafted near the end of one's life, agreements to serve for life were not typically made in a moment of poor health. Depending on individual circumstances, some slaves may not have outlived their owners, or on the other extreme, they may have been manumitted at such an early age that their perception or even knowledge of a future freedom was unclear. At least sixteen slaves conditionally manumitted were aged eleven years old or younger, with some slaves, such as Isidorio, conditionally manumitted at the age of 11 months in 1783.³¹ When age is not provided, we can consider individuals whose race and color were described in the diminutive (i.e., *crioulinha*, *mulatinha*). Here, the number of children conditionally manumitted rises to twenty-three.

Letters of manumission also reveal how the conditional manumission of children was the fruit of enslaved mothers' labor. In 1799, a slave owner freed Joaquim at two and a half years old "for the love that he has for the *mulatinho* because he was raised in his house as well as for his mother's services."³² In that same year, an enslaved child named Martinha was conditionally freed at the age of seven "for the love that she has for the *crioulinha* because she was raised in her house as well as the good services her mother offered."³³ Enslaved mothers labored to negotiate a

³¹ ANRJ, PON, Liv. 156, 72v-73.

³² ANRJ, PON, Liv. 182, 140.

³³ ANRJ, PON, Liv. 183, 136.

conditional freedom they viewed as perhaps the best means to procure a limited future freedom for their children.

Elderly and infirm slaves also received conditional manumissions. Slave holders manumitted elderly and infirm slaves, exempting themselves from providing them care, medicine, and food.³⁴ In at least three instances from my sample, slave owners listed age as a basis for their decision to conditionally manumit.³⁵ One wonders whether this was a cynical and exploitative move by slave holders seeking to prolong the enslavement of individuals, or if the conditional manumission represented a negotiation in which marginal and limited freedom was achieved in exchange for service and reciprocal care. Since we cannot expect that slave owners granted conditional manumissions without the knowledge of their slaves, perhaps in certain cases the conditional manumission of elderly slaves preserved the bonds of slavery with the marginal gains of a limited degree of autonomy or freed identity. Such an argument has interesting parallels to the example of Joana Baptista, from the captaincy of Pará, who voluntarily agreed to return to slavery. Júnia Ferreira Furtado argues that her choice to do so was associated with a sense of honor and dignity that might be undermined living and struggling as a poor freed woman.³⁶

For enslaved individuals described as neither young nor old, there was no clear indication of how long a term of servitude might last. Because their full legal freedom took effect on the day of their master's death and did not require a return to a notary to draft a revised deed, we have no

³⁴ Schwartz, "The Manumission of Slaves in Colonial Brazil," 618-619; Karasch, *Slave Life in Rio de Janeiro*, 361; Sweet, "Manumission in Rio de Janeiro: An African Perspective," 62-63.

³⁵ See the examples of two Benguelan women, Custódia and Maria, in ANRJ, PON, Liv. 183, 7v-8, and Antonio Congo, ANRJ, PON, Liv. 181, 35-35v.

³⁶ Júnia Ferreira Furtado, "Honor and Dishonor in the Slavery of Colonial Brazil," in *On Human Bondage: After Slavery and Social Death*, eds. John Bodel and Walter Scheidel (Malden: Wiley Blackwell, 2017), 169-171. The Brazilian anthropologist Manuela Carneiro da Cunha first discovered the example Joana Baptista and published documents related to her re-enslavement. See "Sobre a servidão voluntária: outro discurso," in *Antropologia do Brasil: mito, história, etnicidade* (São Paulo: Editora Brasiliense, 1986).

clear sense of how long slaves waited to be released from slavery.³⁷ What is more, slaves who were conditionally manumitted by a married couple might be expected to serve both individuals until the end of their lives. In Maricá, located along the Atlantic coast just east of Guanabara Bay, an Angolan woman named Lucrecia agreed to serve both of her masters during their lifetime beyond paying them 57\$600 réis in installments for her freedom.³⁸ In Campo Grande, a *pardo* slave named Francisco also agreed to serve during the lifespan of his married masters.³⁹ In 1782, after Father Antonio Nunes de Siqueira inherited João Angola from his deceased son, he required that João not only serve him for life, but that he also work an additional four years at the *Convento de Santa Teresa do Desterro* where he was established.⁴⁰ Requirements like these clearly ensured that a family member or third party would enjoy the labor of a slave once they were no longer alive. At the same time, agreeing to these conditions, which were sometimes quite extensive, was agreed upon by both slave and master, prompting us to consider that such agreements also came with marginal freedoms and autonomy.

For example, the letter of manumission granted to Sebastião in July 1802 offers a window into the types of arrangements within conditional manumission that slaves and masters negotiated. This freedom letter was distinct because it was handwritten by Sebastião's master, Anna Francisca de Oliveira, and thus free of notarial conventions that muted individual voices. Oliveira described her affection for "my mulato Sebastião" who was raised in her house and who drove her horse-driven coach. In remuneration for his services, she described their mutual obligations:

I declare that if the mulato Sebastião wishes to accompany me on his own will, and live in my house, acting as coachman for the very

³⁷ Occasionally, a freed person or family member to a deceased master requested a rectification from a notary that removed the condition of service. For an example, see the record of Felicia, who along with her deceased master's mother, executed a "revogação da obrigação," or revocation of obligation. ANRJ, PON, Liv. 183, 24-24v.

³⁸ ANRJ, PON, Liv. 183, 87-87v.

³⁹ ANRJ, PON, Liv. 183, 15.

⁴⁰ ANRJ, PON, Liv. 153, 57-57v

few times I leave on my coach, and to deliver messages, in satisfaction of these services I will give him daily sustenance, dress, and shoes, as I have until now, and medicine for his illnesses, and he may never be allowed to ask for more payments from me as long as I live and neither from my heirs after my death.⁴¹

This rare description of specific obligations suggests that Sebastião likely negotiated continued labor in exchange for sustenance, dress, and care for his current or potential illness. It is noteworthy as well that his dress included shoes, which in colonial and then imperial Brazil, was something only freed persons could wear.⁴² Dress, as Tamara Walker argues, was one way in which enslaved and freed people sought to socially distinguish themselves despite their legal status.⁴³

Another example of how slaves participated in defining conditional manumissions can be found in the 1803 carta de alforria for João, born in the Angola region. Some ten years earlier, Gaspar Gomes de Campos purchased João in a local slave market “new and recently arrived” (*boçal*). Campos explained João had served faithfully by paying his daily wages that he accrued in the urban workplace, and “treating me during my sickness with love and care, which he also practiced with my deceased wife.” Campos wanted to conditionally manumit João on the condition that he remain in his company and serve as a slave until his own death. João agreed to this condition, but very vocally, as the letter stated, “protested” that Campos swear to never sell João during the time he was conditionally manumitted. João may have also forced Campos to declare that no future testament could override their agreement, as shortly after João’s protest was registered in the letter of manumission, Campos declared that his heirs could not take testamentary actions against João. The threat of sale and kidnapping loomed large over enslaved and freed

⁴¹ ANRJ, PON, Liv. 17, 29v-30.

⁴² Ana Lucia Araujo, *Brazil Through French Eyes: A Nineteenth-Century Artist in the Tropics* (Albuquerque: University of New Mexico Press, 2015), 77-78.

⁴³ Tamara J. Walker, *Exquisite Slaves: Race, Clothing, and Status in Colonial Lima* (Cambridge: Cambridge University Press, 2017).

people in Rio de Janeiro, the largest slave port in the Americas, and petitions from families in the period speak to a specific fear of being sold to the southern region of Rio Grande do Sul (the subject of chapter four).⁴⁴ Might João have been equally concerned for his own protection against sale as much as he was for legal status? João secured for himself a conditional freedom, and at the same time, ensured his own protection from sale away from the city of Rio de Janeiro, where he had likely enmeshed himself within the kin and community that Africans and their descendants established for themselves.⁴⁵

While we might estimate that conditional terms lasted anywhere between a few years to a few decades, notarial marginalia indicate that some interested parties to the manumission—whether the freed person, their master, a family member, or another group—requested that a notary search their archives for an original deed within a few decades. The record of two slaves conditionally manumitted by their widowed master in December of 1783 was requested by the *Irmandade da Conceição* six years later in 1789, perhaps after their master’s death. The brotherhood was likely the *Irmandade de Nossa Senhora da Conceição do Hospício dos Pardos*.⁴⁶ In April of 1813, sixteen years after they were conditionally manumitted in a region of Rio’s interior known as Novas Minas de Cantagalo, their original deed was requested by an undisclosed party.⁴⁷ While the marginalia do not reveal why the originals were requested, one can imagine the several reasons. Perhaps after the death of a slave owner, a newly freed person sought out a newly notarized copy of the manumission to confirm their freedom. A slave owner or family member inventorying their family’s belongings might also procure copies of a manumission deed to clarify

⁴⁴ For example, see the 1804 petition of Maximiano Francisco Gomes, Isabel, and Inácia, siblings who feared sale or kidnapping to the southern region. AHU-Rio de Janeiro, cx. 223, doc. 15301.

⁴⁵ ANRJ, PON, Livro de Registo 17, 137v.

⁴⁶ ANRJ, PON, Liv. 156, 72v-73. Antonia Aparecida Quintão, *Lá vem o meu parente: as irmandades de pretos e pardos no Rio de Janeiro e em Pernambuco (século XVIII)* (São Paulo: Annablume, 2002), 209.

⁴⁷ ANRJ, PON, Liv. 179, 4v-5.

the conditions under which someone was freed. For this reason, conditionally manumitted people likely pressed their masters to indicate in the letter of manumission itself that they were to be removed from all property inventories.

Born of a Free(d) Womb?: Defining the Legal Status of Children

Conditional manumission, like all forms of manumission, affected enslaved women and men differently. Reproduction was at the core of slavery in the Americas, and the process by which enslaved women gained their legal freedom was deeply connected to their concerns about the transmission of slave heritage to future generations of biological kin. As in other slave societies, the legal status of a child followed that of the mother. The very transition from slavery to freedom was framed in reproductive terms: newly freed peoples were described in letters of manumission as “if they were born of a free womb.” We must also be sensitive to how letters of manumission silenced and concealed relations of sexual power and the paternity of slave-owning men over the enslaved children they freed.

While enslaved women were more likely to gain their legal freedom in colonial society, they and their families were also most vulnerable to the legal ambiguities that arose from conditional manumission. The primary way this manifested was when enslaved women had children after being conditionally manumitted but before their master’s death. Since the status of newborns followed that of their mother, was their child considered enslaved, free born (*ingênuo*), a freed person (*forro*), or also conditionally manumitted (future *liberto*)? Portuguese law did not define the legal status of children born to conditionally manumitted women.

Enslaved women and conditional manumissions were extensively discussed by Brazilian lawyers and jurists in 1857, when the *Instituto de Advogados Brasileiros* debated the status of

children born into these scenarios. Their viewpoints showcased two central interpretations of the matter: while some believed that these children were born free because the conditionally manumitted person was freed themselves, others believed they were unequivocally enslaved because a conditionally manumitted person was not technically freed until the death of their master or the completion of a defined term.⁴⁸

Sidney Chalhoub has shown how the children of conditionally manumitted women used the courts in the mid-nineteenth century to challenge their own legal status and to define that of their children.⁴⁹ Due to the frustratingly precarious state of documents from the eighteenth century, at the moment I have not located any legal suits similar to those from the mid-nineteenth century. The records I have examined for the late colonial period (letters of manumission cross-referenced with baptism registers) show that children of conditionally manumitted women were born into a world where ambiguous and contingent legal and customary practices shaped their legal status. When enslaved women returned to the heirs of their deceased master their children were described in several ways, some as free, others as slaves.⁵⁰ To confront this, enslaved women insisted on notarized documents, illustrating they were keenly aware of potential conflicts and acted to confront them.

In 1793, for example, an enslaved woman named Genoveva and her son were conditionally manumitted by Leandro José Lucas with the obligation that they both serve him until his death. Nine years later, in 1802, Lucas rewarded them for serving with “zeal, fidelity, obedience, and

⁴⁸ For an overview of these debates, see Eduardo Spiller Pena, *Pajens da casa imperial: Jurisconsultos, Escravidão e a Lei de 1871* (Campinas: Editora da Unicamp, 2001), 79-88; Sidney Chalhoub, “The Politics of Ambiguity,” 170-174. Also see Camillia Cowling, *Conceiving Freedom: Women of Color, Gender, and the Abolition of Slavery in Havana and Rio de Janeiro* (Chapel Hill: The University of North Carolina Press, 2013).

⁴⁹ Sidney Chalhoub, *Visões de Liberdade: Uma História das Últimas Décadas da Escravidão na Corte* (São Paulo: Companhia das Letras, 1990). For transcribed examples of such cases, see Lenine Nequete, *O Escravo na Jurisprudência Brasileira: Magistratura e Ideologia no Segundo Reinado* (Porto Alegre: Diretoria de Jurisprudência e Outros Impressos do Tribunal de Justiça, 1988), 141-148.

⁵⁰ See also Karasch, *Slave Life in Rio de Janeiro*, 354, n. 57.

good behavior” by removing this condition, immediately establishing their freedom. During that time, Genoveva gave birth to three children: Cosme, Joaquim, and Joaquina. As Lucas removed the condition, he also explicitly freed these three children “for the love of God,” acknowledging they were born after Genoveva’s “first freedom.” The text of the manumission removed Genoveva’s condition and freed her children as if they were categorically and not conditionally enslaved. It is evident that the freedom of her family was tied to the fulfillment of her obligations, and with the ratification of her manumission, she and her children were allowed to leave Lucas’ house as freed people. Lucas went even further, donating two African slaves to Genoveva, whose daily wages were to assist her in raising her children. Genoveva gained her freedom and became a slave owner.

On March 28, 1782, Simão Dias and Ana de Vasconcelos of Campo Grande conditionally manumitted Josefa and her mother, Maria, with the obligation to serve both husband and wife for life. Precisely twenty-three years later, on March 28, 1805, Vasconcelos returned to a notary to ratify the conditional manumission to account for Dias’ death, and to declare that Josefa was thereafter freed from the remaining obligation to serve Vasconcelos. During those twenty-three years, Josefa gave birth to two daughters, Francisca Maria and Ana Joaquina, who Vasconcelos insisted were baptized as *forras* and who were already “in possession of their freedom.”⁵¹ It is unclear whether Vasconcelos meant that Francisca and Ana were manumitted at the baptismal font, or whether they were viewed as freeborn children. I searched the available baptismal registers for Campo Grande between 1782-1805 and located one possible entry for Francisca Maria in the

⁵¹ For Josefa’s original manumission, see ANRJ, PON, Liv. 153, 41v-42. For her rectification, see ANRJ, PON, Liv. 193, 91v-93. On baptismal manumissions more generally, see James Kiernan, “Baptism and Manumission in Brazil: Paraty, 1789-1822,” *Social Science History* 3, no. 1 (1978), 56-71, and José C. Curto, “‘As If from a Free Womb’: Baptismal Manumissions in the Conceição Parish, Luanda, 1778-1807,” *Portuguese Studies Review* 10, no 1. (2002), 26-57.

register reserved for free born children. The short entry lists “Josefa Maria, *parda forra*,” as the mother, but makes no mention of Francisca’s legal status.⁵² Her record prompts us to ask: how might Josefa self-identify before a priest, both for herself and her children? Moreover, Josefa Maria enlisted free white godparents for Francisca Maria, which was a common strategy among free and enslaved people of African descent in colonial Brazil to establish social and religious relationships with individuals of a higher social status.

Genoveva and Josefa’s experience tell similar and different stories. On the one hand, both were conditionally manumitted women who waited nine and twenty-three years, respectively, for their legal freedoms to take effect. During that time, they gave birth to children whose uncertain legal statuses were shaped by circumstances, negotiations, and agreements that the manumission record conceals, and for which Portuguese law made no clear definitions. Genoveva and Josefa were both also rewarded for their service by a release from their obligations to serve their masters. On the other hand, their rectifications point towards the contrasting ways that their children were treated in the official documentation of their freedom. While Genoveva’s children were freed as if they were slaves, Josefa’s record seems to imply that her children were born and baptized free. In either case, whether born free or enslaved, they were born into a precarious situation that required both women to participate in notarizing legal freedom and building social networks around godparentage. Rather than seek an encompassing legal definition for children born into these circumstances, it is perhaps best to understand conditional manumissions as producing divergent and diverse situations that affected enslaved women and their children. Across these different

⁵² Arquivo da Cúria Metropolitana do Rio de Janeiro, Registro de Batismos – Pessoas Livres, 1777-1811, 124v. The full entry reads: “Aos quatro dias do mes de Junho de mil sette centos e oitenta e seis annos nesta Matriz de Nossa Senhora do Desterro do Campo Grande baptizei, e puz os Santos Oleos a Francisca innocente a filha natural de Josefa Maria parda forra, e de pai incognito, forão padrinhos Manoel Coelho Borges e Dona Antonia de Souza Palenta: de que fiz este assento.”

experiences, enslaved women employed strategies to navigate and mediate the contingent legal statuses that affected their children.

Contracting Freedom: Maria das Virgens and the Protracted Struggle for Manumission

The carta de alforria of Maria das Virgens captures with unusual detail the protracted paths to freedom.⁵³ In particular, it reveals how Maria das Virgens drew upon her knowledge of the legal system to weaken her master's power over the manumission process. In June of 1778, Virgens approached her master, Maria Eugenia de São Francisco, proposing to buy her legal freedom. Virgens agreed to pay São Francisco seven *dobras* (approximately 89\$000 réis) within six months.⁵⁴ By early December of that year, as the six months ended, Maria had managed to pay only three of the seven *dobras* they agreed upon. At this point, São Francisco considered their agreement broken and refused to extend the window in which Virgens could acquire and pay the final four *dobras*. São Francisco's refusal to amend their agreement prompted Virgens to sue her in the court of the civil magistrate.⁵⁵ While the suit was pending, Virgens and São Francisco reached a second agreement outside of the court, something that frequently occurred as parties to a case weighed their odds and potential losses.⁵⁶ In their new agreement, Maria agreed to pay her daily wages to São Francisco (around \$60 réis per day) for three years in addition to the initial seven *dobras*. As they struck a new deal, São Francisco also relieved herself of her responsibilities to feed and house Maria.

⁵³ Unless otherwise stated, the analysis that follows is based on ANRJ, PON, Liv. 153, 10-11v.

⁵⁴ One *dobra* was equivalent to 12\$800 *réis*.

⁵⁵ I was unable to locate records relating to this case.

⁵⁶ For example, an enslaved woman named Violante brought her master to court over a broken agreement regarding her manumission in 1804. Her master preferred to settle the matter before a notary, signing an agreement to give her manumission so long as she ceased her suit. ANRJ, PON, Liv. 189, 141-141v.

Here, the details become muddled. During the three years of her independent labor Virgens was understood to have had in her company a child named Beatriz ambiguously referred to as “*a filha*,” or the daughter. The record also references two more children later described as São Francisco’s slaves, Luis and Manuel; however, it does not provide their parents’ names. What is clear is what happens next. At this point in the record, the notary recorded that Virgens was now obliged to “nurse the child [filho] Manuel for one more year” in addition to the seven *dobras* and wages agreed upon earlier. This was not an uncommon condition. Conditional manumissions involving the extension of enslaved women’s labor raising their master’s children was found in several instances from the period. In 1782, for example, an enslaved woman named Mariana agreed to assist in raising a child for an additional ten months to make up for her “diminished value.” What was unique about Maria’s circumstances, however, was that she was already separated from her master’s residence. São Francisco addressed this by instructing Virgens that she was to return Manuel at the end of one year, but that “if Manuel falls ill during that year, [Maria das Virgens] is obligated to return to the house of [São Francisco] so that he can be cured on her expense for as long as the sickness continues.” Additionally, São Francisco forbade Maria from leaving the city of Rio de Janeiro and its suburbs during that year or else she would be “apprehended and returned to slavery.”⁵⁷

Many questions remain. Who were Beatriz, Luis, and Manuel, and why did Maria’s long road to legal freedom end with raising Manuel for an additional year? One possibility was that they were Maria’s children. However, manumission records reproduced the gendered nature of slavery and manumission, rarely leaving doubt about the maternity of enslaved children,

⁵⁷ I am reminded of the work of Stephanie Camp, whose study *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: The University of North Carolina Press, 2004), helps us understand the spatial dimensions and implications of enslavement. Maria das Virgens lived outside of her master’s home, yet São Francisco still enforced spatial limits on Virgens to prevent her from fleeing.

something that Maria's record left much more ambiguous. There is some evidence to suggest that São Francisco ran a foster home [*criadeira*]. Charitable institutions like the Santa Casa de Misericórdia regularly contracted families to foster orphans. This may help explain why the three children are referenced in the manumission record with no clear declaration of their parents. Furthermore, the same institution that contracted foster families also provided medical assistance, which clarifies the stipulation that Maria return with Manuel if at any point he became ill.⁵⁸ A request for a travel license from over twenty years earlier also indicates that São Francisco was herself an orphan, perhaps explaining why she fostered children.⁵⁹ If they were foster children, one is still left with the uneasy, unanswerable question of why and how the record described Luis and Manuel as São Francisco's slaves.

Maria das Virgens' manumission functioned as much as a contract as it did a letter of conditional freedom. Seen this way, her manumission, with its attention to the twists and turns of a multi-year manumission struggle not regularly captured in notarial records, invites us to consider how enslaved persons participated in determining what was fair, appropriate, and feasible, all while wielding those resources available to them—courts, wages, and their own labor. It is noteworthy, for example, that the letter of manumission referred to Maria das Virgens' own will [*vontade*] written into the letter of manumission. The notary recorded that she “agreed that [the conditions] were fair, and does so by her free will.” This kind of observation or remark was not typically included in letters of manumission. By 1783, when the contract was drawn up, Maria das Virgens managed to leverage legal and economic pressures against her master, which had the effect of pushing São Francisco to continually redefine her threshold for granting manumission to

⁵⁸ Renato Pinto Venâncio, “Infância e pobreza no Rio de Janeiro, 1750-1808,” *História: Questões e Debates* 36 (2002), 129-159.

⁵⁹ AHU-Rio de Janeiro, cx. 64, doc. 6072.

preserve her power in a situation that was perhaps slowly slipping away. In one revealing moment of the contract, for example, São Francisco threatened to revoke their agreement one final time if “[Maria] disrespects [São Francisco] as her master [patrona].”

Reading the carta de alforria multiple times, this line stood out among the other obligations scribbled by the notary. It felt that São Francisco wanted to revive a sense of mastery over her slave in the very same proceedings that revealed her insecure and personal power. While conditional manumissions often included clauses about expectations of slaves and their comportment, one gets the impression that São Francisco tried to preserve her own fragmented mastery and to feel some semblance of that which manumission legally entitled her: gratitude. São Francisco was also motivated by litigation that was still pending in Rio’s courts despite having made many informal agreements since Virgens originally sued years earlier. To end that matter finally, São Francisco insisted that Maria shoulder all the legal fees from her suit and sign a statement swearing to cease legal actions against her. The legal pressures exerted by Virgens clearly kept São Francisco at a disadvantage until they could be resolved.

What can Maria das Virgens’ manumission tell us about conditional manumissions more generally? Certainly, hers was an exceptional case. Rarely does a manumission record capture with such detail and nuance the complex dynamics between slave and master that characterized her four-year struggle for freedom. One can imagine the entirely new layer of depth that would be added to the conflict if extant copies of the earlier suit against São Francisco survived. Even without the suit, what we learn is how the process of manumission and the records it produced enabled slaves and masters to define the very meanings of their own relationship, even as the documents they were drawing up functioned to release slaves from their enslavement. They did so with uneven access to power. Slave owners controlled the manumission process, in part, because

the very act of manumission was conceived of as a gift or donation with requisite obligations expressed through gratitude. Yet, no matter how much of the process was protected in favor of slave owners, power was multivalent. Slaves could leverage different pressures that consistently forced slave owners to revise the boundaries of their mastery and power. In some cases, as we will see with the case of Felipe da Fonseca Araújo, accepting the terms of a slave owner's power and the conditions that constrained them could be a form of leverage, enabling conditionally manumitted slaves to contest and define obligations outlined in freedom letters.

One final detail of Maria das Virgens' story highlights the temporal experience of manumission. Three decades later, on July 8, 1816 a notary in Rio scribbled a small note in the margins of Maria's original manumission text stating that someone requested a copy of the manumission. The note does not disclose who requested the record or why. Whatever the reason may be, the small note reminds us of the lifelong experience of manumission. Manumission was not solely an act enacted before a notary, but rather a process that marked slave and slave owner for years, sometimes decades.

Honorable Freedoms and the Souls of Former Masters

Whether or not São Francisco was a *criadeira*, her intention to profit from Maria's labor as a wet nurse was evident in the types of conditions she imposed and her struggle to maintain some semblance of mastery even if it was slowly slipping away. Historians writing on conditional manumissions in Brazil have not shied away from underscoring its coercive nature, the stark reality that freedom came at a cost that was not always expressed directly in currency. Yet, some conditions belie our expectation that slave owners used conditional manumissions as naked coercive mechanisms to materially benefit from their slaves' freedom. Some conditions written

into letters of manumission went beyond the motivations of slave owners to retain labor for a defined period or to pay back debts. Some slave owners were also concerned with the private and public lives of their former slaves.

There are glimpses of this in the ways that freedom dovetailed with notions of honor and virtue. In six instances from the early 1780s, slave owners made legal freedom contingent on the maintenance of honorable marriages.⁶⁰ In May 1782, for example, a slave-owning couple manumitted a woman named Ursula with the obligation that she “carry herself with honor in the company of her husband.” Her husband, Martinho, was also a slave who belonged to the same masters, but he was not being freed at the same time. That Ursula’s new freedom was linked to an honorable marriage with her enslaved husband seems to indicate that there was something else behind Ursula’s contingent freedom. Was her freedom and its condition a method of establishing indirect control over Martinho, who remained a slave? It would be difficult to deny some measure of coercion behind their decision to impose the condition on Ursula. It would fit within a broader debate in Brazilian historiography about the politicization of marriage as a tool of slave owners.⁶¹ Yet even so, emphasis in the letter was placed on her honor as a married (and freed) woman, over her marriage to one of their slaves.⁶²

One year later, two men, João Vieira and Joaquim Angola, were also freed by their master on the condition they remain in the company of “their wives with good behavior, honor, and honesty, never forsaking them.”⁶³ If they did leave their wives or acted dishonorably and their

⁶⁰ Conditions of marriage in exchange for freedom preceded eighteenth-century Brazilian slave society. In fifteenth- and sixteenth-century Portugal, A.C. de C.M. Saunders cites the example of Queen Maria, who “freed only those of her slave women who married or took religious vows.” A.C. de C.M. Saunders, *A Social History of Black Slaves and Freedmen in Portugal* (Cambridge: Cambridge University Press, 1982), 140.

⁶¹ For a summary and challenge to this, see Sandra Lauderdale Graham, *Caetana Says No: Women’s Stories from a Brazilian Slave Society* (Cambridge: Cambridge University Press, 2002), 31-33.

⁶² ANRJ, PON, Liv. 153, 117v-118.

⁶³ ANRJ, PON, Liv. 156, 88-88v.

former master learned of it, he retained the right to nullify their freedom and re-enslave them. In at least one case, an enslaved woman was told that her freedom was contingent on her marriage to an arranged partner. Maria Conga thus not only paid 83\$000 réis for her freedom, but also agreed to marry Manuel de Jesus, described as a “preto forro e liberto,” to finalize her legal freedom.⁶⁴ An enslaved child named Ana was conditionally freed by her master with the obligation that she remain in her company for life. After her master’s death, she would gain her legal freedom. But the obligations did not end there. After her master’s death, Ana was required to live in the company of the executor of her master’s last will and testament so that he may “raise her until she becomes married.”⁶⁵



Figure 1.1: Jean Baptiste Debret, "Marriage de Negres d'une Maison Riche" (Marriage of Blacks in a Wealthy Household), 1816-1831.

⁶⁴ ANRJ, PON, Liv. 156, 11v-12. Although I only encountered one arranged marriage, there is evidence that it also occurred in Porto Alegre, sometimes arranged between master and slave. *Que com seu trabalho nos sustenta*, 53-54. Carlos Leonardo Kelmer Mathias and Fernanda Fioravante found one case of arranged marriage in exchange for freedom, and even one newly freed person prohibited from marrying “negro ou mulato cativo de outrem.” Mathias and Fioravante, “A Liberdade Condicionada: Senhores, Escravos e suas Orientações Valorativas no Contínuo Reinventar da Escravidão e da Liberdade nas Terras do Ouro no Decurso do Setecentos,” in *Últimas Vontades: Testamento, Sociedade e Cultura na América Ibérica*, eds. Roberto Guedes, Claudia Rodrigues, and Marcelo da Rocha Wanderley (Rio de Janeiro: Mauad X, 2015), 178-179. See also Ubaldo Soares, *A Escravatura na Misericórdia* (Rio de Janeiro: Fundação Romão de Matos Duarte, 1958), 41.

⁶⁵ ANRJ, PON, Liv. 155, 192v-193. Here, the word “educar” meant to raise as much as to educate. An eighteenth-century dictionary defined it as “criar, dar ensino, e educação, doutrinar a mocidade.” Morais, *Diccionario da Lingua Portuguesa...*, 462.

The full extent to which newly freed peoples' marriages factored into the manumission process is unknown, since such considerations were not always explicitly expressed in notarial records. Perhaps some slave owners imposed conditions that were left out of *cartas de alforria*. Either way, the above examples, as well as the fact that the condition of marriage can be found across Brazil during the period, might indicate that some slave owners shared a growing and popular view of freed peoples as vagrants and prone to sexual deviation. By the end of the eighteenth century, one does not have to look far into the archive to encounter colonial and religious authorities linking freed people with vice and vagrancy (*vadiagem*). Freed men were regularly described as vagrants (*vadios*), transient threats against social order with no moral compass. The growth of prostitution and brothels throughout the eighteenth century framed freed dispossessed black women as a threat to the ideal woman, virtuous and chaste.⁶⁶ In ordering newly-freed women to remain honorable and newly-freed men to not leave the company of their wives, perhaps some slave holders addressed broader societal anxieties within their own homes and communities. But why?

Manumissions contingent on honorable conduct in marriage and beyond suggest that some slave owners saw freed peoples lives' as a reflection of their own honor and respectability. Marriage was a key realm in which masters could impose some influence on their former slaves' lives, for marriage was so important an institution in colonial society. In Orlando Patterson's *Slavery and Social Death*, he argues that "the honor of the master was enhanced by the subjection of his slave."⁶⁷ These conditional manumissions offer an expansion of this formulation: that the

⁶⁶ For a few examples from the period, see the correspondence of Viceroy Resende in the 1790s. ANRJ, cód. 69, vol. 6, 41; AHU-Rio de Janeiro, cx. 71, doc. 96.

⁶⁷ Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge: Harvard University Press, 1982), 79. Marisa J. Fuentes offers a crucial revision of Patterson's masculinist reading of honor and slavery, extending the concept to white women slaveholders and the way their honor "was connected to both perceptions and expectations of their virtue and their ability to commodify another's sexuality and reproduce freedom." Marisa J.

honor and character of a freed person perhaps enhanced the honor of a former master. Power, perhaps, was re-articulated in freedom through honor, and not solely through subjection, as part of the larger web of obligations that comprised the ideal patriarchal relation. In 1783, the heirs of a deceased couple returned to a notary to “rectify” a manumission granted to Genoveva twelve years earlier in 1771. Apparently, their parents had granted conditional manumission to Genoveva “because they wish to commit a kind and charitable act, and so that she can marry.” Now, twelve years later, their heirs returned to grant full freedom to Genoveva “because the said parda is honest and of good conduct.” On the one hand, Genoveva honored the conditions set out in her original manumission, and maybe she requested that the rectification be drawn up. But one also wonders if the rectification presented a deeper meaning for the memory of their deceased parents. The notarization was attended by children and spouses of the deceased (five in total), who travelled from a rural parish to an urban notary to be present as witnesses.⁶⁸

At the same time, these conditional manumissions revealed an assumption of slave owners but concealed the realities for slaves and freed peoples: that enslaved and freed peoples had no code of honor, and that they did not use and appropriate marriage for their own purposes. Quite the opposite was true, as many historians have demonstrated.⁶⁹ Freed persons and slaves in slave societies throughout Brazil and Latin America proved inside and outside of courts that they

Fuentes, *Dispossessed Lives: Enslaved Women, Violence, and the Archive* (Philadelphia: University of Pennsylvania Press, 2016), 78-80.

⁶⁸ ANRJ, PON, Liv. 155, 170v-171.

⁶⁹ On honor among slaves and freed people, see Graham, *Caetana Says No*; Sandra Lauderdale Graham, “Honor Among Slaves,” in *The Faces of Honor: Sex, Shame, and Violence in Colonial Latin America*, eds. Lyman L. Johnson and Sonya Lipsett-Rivera (Albuquerque: University of New Mexico Press, 1998); Sherwin Bryant, *Rivers of Gold, Lives of Bondage: Governing Through Slavery in Colonial Quito* (Chapel Hill: The University of North Carolina, 2014); María Eugenia Chaves, *María Chiquinquirá una esclava del siglo XVIII: Acerca de las Identidades de Amo y Esclavo en el Puerto colonial de Guayaquil (Guayaquil: Archivo Histórico del Guayas, 1998)*; Junia Ferreira Furtado, “Honor and Dishonor in the Slavery of Colonial Brazil.” On freed peoples own approaches to marriage in the period based on “processos de banhos matrimoniais,” see Ingrid Ferreira de Souza, “Vivendo além do cativo: Os Libertos da Sé do Rio de Janeiro (1701-1797),” (M.A. Thesis, Universidade Federal do Estado do Rio de Janeiro, 2014).

adopted and adapted codes of honor and respectability among themselves and acted on those beliefs.

Other conditions written into letters of manumission suggest that slave owners shared a concern that their own salvation was tightly connected to the act of manumission. Cartas de alforria from my sample and across Brazil often made freedom contingent on religious acts performed for the salvation of former or deceased masters. Slave owners instructed their conditionally manumitted slaves that after their death, they were required to participate in and pay for a pre-established amount of *missas*, or masses. In deciding who would say masses and for how long, slave owners made extensive preparations for their death. Masses did more than honor the deceased; they also shortened the wait in purgatory.⁷⁰ Typically, testators used testaments to order masses for themselves or others. That these stipulations were made outside of the testamentary process, where decisions to manumit were made closer to the hour of death, suggests that some masters closely associated their slaves' freedom with their own salvation, a way to clear their conscience before their death. If one were to sample testamentary and notarial manumissions together, the frequency of legal freedoms contingent on *missas* would likely be significantly higher than what is found in notarial records.

As a religious act, *missas* could be financially burdensome. Moreover, they often came at the end of an already uncertain term of service: five of the seven examples cited above also included the condition to serve for life, with the *missas* performed after the death of the master. *Missas* were also an important source of income for churches and lay brotherhoods. Each church

⁷⁰ On masses and funerals in the eighteenth and nineteenth centuries, see João José Reis, *Death is a Festival: Funeral Rites and Rebellion in Nineteenth-Century Brazil* (Chapel Hill: The University of North Carolina Press, 2003), chapter 7; Zephyr Frank, *Dutra's World: Wealth and Family in Nineteenth-Century Rio de Janeiro* (Albuquerque: University of New Mexico Press, 2004), 122; Adalgisa Arantes Campos, "Irmandades Mineiras e *Missas*," *Varia História* 16 (1996), 66-76.

and parish set different prices on missas, and there were several types of missas. Some missas, like the *missa do corpo presente* (\$640 réis), was performed over the coffin of a deceased individual, while others were said within the church at repeated intervals for months or years after one's burial in their honor (320 réis).⁷¹ The latter were expected to be performed by slaves.

Roque, a Benguelan slave, was freed on the condition that he serve until his master's death and then pay 32\$000 réis worth of missas (approximately one hundred masses) "for his [master's] soul and for his [master's] deceased wife."⁷² Feliciano Cassange's freedom was contingent on saying twenty missas (6\$400 réis) for his master, above and beyond covering extant debts.⁷³ A crioulo slave named Luis gained his freedom after he helped to arrange the funeral of his master and promised to say a "half of a *capela*" of missas.⁷⁴ Often, quantities of missas were expressed in terms of a *capela*, which in the period equaled fifty.⁷⁵ Therefore, Luis said twenty-five masses. Some *capelas* were required to be said at regular intervals, sometimes over years depending on the status and wealth of the deceased.⁷⁶ If these were required to be spread out over regular intervals, as some were, *capelas* prolonged the religious labor of slaves towards the salvation of their former masters, possibly a year or more in some cases. Some slaveowners even insisted that their former slaves deliver certificates signed by religious authorities confirming the completion of the necessary masses.⁷⁷

⁷¹ In 1794, José de Sousa Azevedo Pizarro e Araújo surveyed (*visita pastoral*) churches in the diocese of Rio de Janeiro. He found that *missas do corpo presente* averaged \$640 réis. For a transcription of the entire *visita*, see Francisco Javier Müller Galdames, "Entre a cruz e a coroa: a trajetória de Mons. Pizarro (1753-1830)," (M.A. Thesis, Universidade Federal Fluminense, 2007).

⁷² ANRJ, PON, Liv. 153, 12v-13.

⁷³ ANRJ, PON, Liv. 179, 28-28v.

⁷⁴ ANRJ, PON, Liv. 155, 130v-131.

⁷⁵ Nelson Henrique Moreira de Oliveira, "Forros Senhores da Freguesia de Nossa Senhora da Piedade do Iguçu," (M.A. Thesis, Universidade Federal Rural do Rio de Janeiro, 2010), 74, n. 177.

⁷⁶ A.J.R. Russell-Wood, *Fidalgos and Philanthropists: The Santa Casa da Misericórdia of Bahia, 1550-1755* (Berkeley: University of California Press, 1968), 167-168.

⁷⁷ For examples of slave owners ordering certificates be presented to executors, see the cases of Feliciano Cassange, described above, and Elena, ANRJ, PON, Liv. 179, 28-28v and ANRJ, PON, Liv. 182, 1v-2.

In preparing for their deaths, individuals in colonial society took extensive measures to ensure the salvation of their soul and to cleanse their conscience. For slave owners, this included viewing their slaves' religious labor as vehicles through which they could reflect their own good and gracious will towards salvation. Within the church, slaves ordered and paid for masses according to the final wishes of slave owners and in line with the expectations outlined in a letter of manumission. Although the length of time in which one was obligated to perform missas did not approximate the long terms of conditional servitude, missas were the second most common condition found in my samples. Whether ambivalent about or invested in such memorializing acts, there is some evidence that freed people continued the spiritual memorialization long after the immediate death of a master. In Bahia, there is evidence that some freed persons who drafted their own testaments ordered missas for their former owners. In fact, according to João José Reis, freed testators ordered more masses for their former masters than for any kin in Africa, "reflecting an ideological commitment to paternalistic masters and the new (Catholic) rules of ancestry imposed by slavery."⁷⁸ One African testator in Bahia even remarked in his testament that "if there exists the so-called patrono rights, I leave to my patrono who conferred my freedom ten *tostões* [12\$000]."⁷⁹

A Pure and Irrevocable Freedom?

In May 1796, a notary appeared at the home of José de Pereira Araújo and Joaquina Teodora Felizarda Neves to draft a carta de alforria for their six slaves—Felipe, Bernardino, Tomás, Maria Cabra, and her two sons, Mariano and Januário.⁸⁰ According to the carta that was

⁷⁸ Reis, *Death is a Festival*, 197.

⁷⁹ Maria Inês Côrtes de Oliveira, *O Liberto: O seu Mundo e os Outros* (São Paulo: Corrupio, 1988), 99-100. One *tostão* was equivalent to 1\$200 réis.

⁸⁰ ANRJ, Juízo de Fora, Maço 29, Número 631, Galeria C, 1798. Hereafter, referred to as *Araújo v. Neves*.

drawn up, all six individuals were granted a “pure and irrevocable freedom” so long as they accompanied and served both of their masters until their deaths. To ensure that their slaves remained in their home and displayed gratitude, both slave owners declared that they reserved the right to annul and revoke the manumission.⁸¹ A few days after this manumission was drawn up and notarized, José de Pereira Araújo died, leaving his urban estate and its management to his wife.

Two years later, one of those conditionally freed individuals, who now identified himself as Felipe da Fonseca Araújo, brought forth a civil suit against the widow Neves addressing the glaring contradiction found in the manumission’s text: how could he be granted a “pure and irrevocable freedom” while also being obligated to serve as Neves’ slave until her death? Araújo, now a litigant, used his civil suit and the court to define in his own terms the ambiguous spaces between slavery and freedom that conditional manumissions created. To initiate civil suits (*libelos*), plaintiffs first had to draft a series of claims (*artigos*) that the proceeding materials would prove or disprove. Across six artigos, Araújo’s suit cohered around two particular claims. First, Araújo argued that the obligation to accompany and serve Neves was not only *viciosa* but also invalid.⁸² If a pure and irrevocable freedom was conferred, then any condition found in the manumission’s text after that distinct phrase could not bind Araújo as a slave, even temporarily, until Neves’ death. The only conclusion, according to this argument, was that Araújo was legally a freed person but bound by obligations to his former master.

Second, Araújo attempted to define the obligations of conditionally manumitted slaves by invoking, and ultimately limiting, what the suit called “patrono rights” (*direitos de patrono*). The

⁸¹ Araújo v. Neves, 6-7v.

⁸² *Vicioso* was defined as “que tem vicio. Dado ao vicio, ou vicios. Depravado, corrupto, adulterado.” Bluteau, 524. It described something corrupted, possibly even questioning the character and honor of the accused.

invocation of something called “patrono rights” pointed more towards customary relations and practices between slaves and slave owners, as no list of rights was established by any law. Since the original manumission until the beginning of the civil suit Araújo found himself “rendering all of the services, and contributing his daily wages, as if the said freedom never took effect,” services he believed Neves was not entitled to. Araújo offered his own interpretation of what conditionally manumitted slaves were obligated to do for their masters: “if that clause was valid (which we negate) the defendant cannot demand more than those *ofícios* owed to them from their rights as *patrono*; but not their daily wages, or even the obligation to serve in the ways that slaves do.”⁸³ In drawing the distinction between *ofícios*, a term that invoked obligation, and *jornais*, or daily wages, this interpretation also balanced subservience with the concession of Araújo’s rights to a *pecúlio*, or the savings that a slave or servant could accumulate.⁸⁴ In granting the conditional manumission (even if the clause was valid), Araújo believed that his status changed. Being reduced to provide “services performed by slaves” limited his ability to act and identify freely.

Before they could build an argument from these claims, Neves’ lawyers shrewdly recognized that procedural matters would influence the trajectory and outcome of the case. Even though Araújo presented himself in court as a freed person, Neves’ lawyers believed from the outset that they could define Araújo as a slave through procedural moves, in turn placing greater restrictions on the types of arguments Araújo could advance. Before moving forward with the case, Neves’ lawyer, José Lopes Ferreira da Rocha, argued that Araújo needed to assure the judge that he would be able to pay the legal fees (*fiança às custas*) and that Neves would be financially protected against the loss of her property (*fiança à pessoa*). Portuguese law allowed defendants to

⁸³ *Ibid.*, 4v.

⁸⁴ In one eighteenth-century dictionary, *ofício* is defined as “obrigação dever v.g. fazer seus officios; fazer officio de bom amigo.” Bluteau, *Vocabulário Portugues*, 130.

request that a plaintiff post a fiança à custa, a financial bond, which declared another individual responsible for accumulated legal fees if the plaintiff was condemned and failed to pay them.⁸⁵ This was one tactic to stall a legal action before it could proceed, since plaintiffs were burdened with enlisting another person to accept a financial risk.⁸⁶

More consequentially, Rocha also demanded that Araújo post a fiança à pessoa, a personal bond. Posting a personal bond would essentially concede that Araújo was a slave, or at least that there was some ambiguity in his legal status. A personal bond like that demanded by Rocha was another strategy to advantage slave-owning defendants brought to court by their slaves, as well as to ensure that if Araújo fled Rio de Janeiro, Neves would be indemnified for her loss.⁸⁷ While Neves had no doubt in her mind that Araújo was her slave—he had, after all, been paying her 320 réis per day out of his personal wages for almost two years—undoubtedly the bond was sought as a strategy to transform the case from a freed person protecting their freedom into a slave challenging their master.

Araújo and his lawyer immediately took issue with Rocha's requests. They might have come to expect that a fiança às custas would be requested. But to concede a personal bond would severely limit the scope of potential arguments that could be used to prove their original claims. To challenge the personal bond, Araújo and Varela turned to a new strategy: to prove that Araújo was reputed as a freed person since at least 1795 (three years earlier) and that Neves was aware of his reputation. They presented two pieces of evidence. The first was a sworn statement from the mother of José de Pereira Araújo (Neves' deceased husband) in which she declared that when the

⁸⁵ Liv. 3, Tit. 20, §6, "Da ordem do Juízo nos feitos cíveis," *Ordenações Filipinas*. It read, "E sendo requerido pelo reo, que o autor dê fiança às custas, será obrigado a dal-a em qualquer tempo, que lhe fôr pedida..."

⁸⁶ Fernanda Aparecida Domingos Pinheiro, "Em defesa da liberdade: libertos e livres de cor nos tribunais do Antigo Regime português (Mariana e Lisboa, 1720-1819)," (Ph.D. Diss., Universidade Estadual de Campinas, 2013), 186-187, n. 92.

⁸⁷ *Ibid.*, 206.

time came to divide his estate between his heirs (including herself) and his wife (Neves), Felipe and the other five conditionally manumitted slaves were not inventoried nor included in any of the papers relating to the process. She even went as far as to say that “she was certain they were libertos.” Earlier, we saw how the removal of slaves from the *terça* and *meação* could benefit slaves; here, we see why such an act was consequential for individuals in facilitating the recognition of their freedom. If Neves did not document them as slaves, serious doubts could be raised about the request for a personal bond.⁸⁸

Araújo also presented a license issued by the city’s municipal council in 1795 that allowed him to open his own shoemaking shop. This license was dated one year before his notarized manumission. His lawyer argued that the license made no reference to his status as a slave and showed that he “was reputed to be free” as early as 1795. Since they did not argue that Araújo was free before 1796, this latter piece of evidence was arguably less effective and could expose him to accusations of mis-identification. Nevertheless, a copy of the license was introduced into the suit to demonstrate that even the municipal government reputed him as free.⁸⁹

Lawyers for Araújo and Neves continued to dispute the necessity of a personal bond, so much so that the case never moved forward. Eventually, Araújo enlisted a *fiador* to back up the legal fees and completed the *fiança às custas*.⁹⁰ But Rocha, Neves’ lawyer, was less than convinced by the documents produced to prove that Araújo was reputedly free. “These documents are not worth anything,” wrote Rocha in response to the sworn statement and to the 1795 license.⁹¹ Rocha raised the point that many slave owners permitted slaves to open and work at shops and taverns

⁸⁸ The sworn statement of D. Anna Maria de Andrade is located in *Araújo v. Neves*, 12. Interestingly, the statement is dated May 29, 1797, one year before the suit was officially brought forth in the courts. Unless the date was incorrectly written, the fact that the statement is signed before the suit began suggests that Araújo and others were challenging their statuses soon after their manumissions were drawn up.

⁸⁹ *Ibid.*, 14-14v.

⁹⁰ *Ibid.*, 19. The *fiador* was Custódio José do Nascimento, who owned a furniture shop on the Rua de Sucusorara.

⁹¹ *Ibid.*, 16v.

throughout the city. This was true; however, it was customary to designate the legal status of the person seeking a license. Moreover, Rocha now suggested that a personal bond would also require Araújo to continue paying his daily wages (320 réis) to Neves. Varela notified the judge that Araújo would be willing to sign a personal bond, but would hold onto his wages “because the law provides for him to enjoy them.”⁹² This may have been a compromise to move the case forward, but even this concession was challenged by Rocha, who was unwilling to accept that Araújo would hold onto his wages.

If Rocha’s intention was to transform the basis of the case via procedural matters, both sides recognized what was at stake with a bond. For Neves, the legal admission that Araújo was her slave not only bolstered her case, but also ensured that she could continue to enjoy his wages and labor. For Araújo, there was a significant issue between his ability to live and act as a freed person and then to be identified as a slave or even perform work “belonging to slaves.” Between April 1798 and October 1799, lawyers for both parties went back and forth over the relevance of these bonds, so much so that the case was fought out on those grounds. Finally, in October 1799, Rio de Janeiro’s *Juiz de Fora*, José Bernardes de Castro, decided that no bond as requested by Rocha and Neves would be required to move the case forward.⁹³ He did not explain his decision, but one can imagine that Araújo’s evidence and Neves’ lack of it swayed his opinion to finally move the case forward.

But the case did not move forward. After ruling that no personal bond was needed, the court record abruptly ends. The sudden end to the court record seems to indicate the judge’s decision dealt a heavy blow to Neves’ prospects for success. Without the rest of the court record, what might seem like procedural quibbling over bonds becomes a site where Araújo debated,

⁹² *Ibid.*, 20v.

⁹³ *Ibid.*, 29.

defined, and tested his identity as a freed person within the court.⁹⁴ The types of claims that both sides made in court points towards the wide range of ways that individuals were defined legally or socially as slaves or as freed people. In shifting the debate from whether the conditional manumission was valid (the original purpose of the suit) to whether Araújo was a slave (prompted by the bond debate) both parties revealed the different ways in which people in their society defined someone as slave or freed.

Araújo's legal suit points us towards something beyond a slave/free dichotomy resulting from conditional manumission, and an awareness of this by people living in and between slavery and freedom. To press the point even further, this may be characteristic of what it meant to be a future liberto. Certainly, Araújo denied that he was a slave. At the same time, he recognized that if his conditional manumission was valid, he was still neither entirely enslaved nor free of obligations to Neves. In that sense, it was not a contradiction that Araújo at once could seek a reputation as a freed person and at the same time acknowledge a set of customary obligations to his former master.

After weeks of reading Araújo's court case in Brazil's National Archive, I believed that I had hit a dead end. I was surprised when his name reappeared in a document dated about four years after his court record went silent. In a declaration of revocation dated October 25, 1803, Joaquina Teodora Felizarda Neves exercised the power afforded to her by Portuguese law to revoke Araújo's manumission. Neves visited one of Rio de Janeiro's notaries to revoke the freedom of Araújo and three of the other six slaves who were granted manumission at the same time as him. Neves claimed that the four slaves—Felipe, Bernardino, Tomás, and Mariano—were not only inhibited by their

⁹⁴ Here, I am influenced by Brian P. Owensby, who argues for closer attention to procedural intricacies—"the stuff of law in practice"—in order to reconstruct the lives of enslaved litigants and how they understood the legal realm. Brian P. Owensby, "How Juan and Leonor Won Their Freedom: Litigation and Liberty in Seventeenth-Century Mexico," *Hispanic American Historical Review* 85, no. 1 (2005), 43.

ingratitude to appreciate what she had conferred to them, but they also deserved to be severely punished.⁹⁵ In the next section, I discuss what it meant to revoke someone's manumission, and explain why ingratitude, as the primary allegation, held so much weight before the law.

Joaquina's Dissent: The Meanings of Gratitude

As slave owners attempted to define their moral authority in the text of *cartas de alforria*, they wielded what was perhaps their most powerful right as slave owners in the Portuguese Empire: the ability to revoke the very freedom whose conferral they privately governed. The performance of gratitude was central to the affective and material relationship between newly freed persons and their former masters in the Iberian Peninsula and the Americas. Throughout the Iberian colonial world, manumission was viewed alternately as a gift or donation which necessitated displays of gratitude and reverence to the person who gifted or donated that freedom. In the *Siete Partidas* (1256-1265), an Iberian legal code that influenced Portuguese law, freedom was described as “one of the most honorable and precious things of this world, [and] those who receive it are obliged to love, obey, and honor their masters who emancipate them.”⁹⁶

The *Ordenações Filipinas* (1603), Portugal's legal code, presented manumission as a donation, an act that symbolized the benevolence of the donor and, therefore, required gratitude from the recipient. According to title 63 of book 4, both donations and manumissions could be revoked by the original donor. The text declared,

Should someone manumit their slave, freeing them from all servitude, and after being free, the freed person commits some

⁹⁵ I found the revocation by chance in the extensive database compiled by geographer Mauricio Abreu and hosted by his website. “*Escritura de revogação de liberdade...*” October 25, 1803, “Banco de Dados da Estrutura Fundiária do Recôncavo da Guanabara Sécs. XVII-XVIII.” Last accessed on May 27, 2018.

<http://mauricioabreu.com.br/escritura?id=12692>

⁹⁶ Tit. XXII, Law VIII, in *Las Siete Partidas: Family, Commerce, and the Sea*, ed. Robert I. Burns, S. J. (Philadelphia: University of Pennsylvania Press, 2001), 983-984.

personal ingratitude, in their presence or absence...the original master [*patrono*] may revoke the freedom given to this freed person, and return them to enslavement, as they were before...⁹⁷

The *Ordenações Filipinas* treats manumission as a donation, thus holding manumission to the same rules as any other donation made during the period. The relationship between freedom and gratitude inherent in the above statement was not novel to the *Ordenações Filipinas*, and was outlined earlier in the *Siete Partidas* and the Justinian Codes. Nevertheless, devising manumission as a donation preserved a relationship of unequal power between slave owner and former slave. The right of slave owners or former masters to revoke manumission was abolished in 1871 with the Lei do Rio Branco.

Comparatively speaking, revocations of manumission were rare in late colonial Rio de Janeiro, as in the rest of Brazil.⁹⁸ Historians working with large samples of letters of manumission have found that threats of revocations were much more common than actual revocations. However, while revocations of manumission were relatively uncommon, when they did occur, they nearly always involved conditionally freed slaves. I believe this is because conditional manumissions, more so than other forms of manumission, brought into sharp relief the antagonisms among slaves, future libertos, and slave owners, as we have already seen in the examples of Maria das Virgens

⁹⁷ From *Ordenações Filipinas*, liv 4, tit 63. Its predecessor was located in the *Ordenações Manuelinas*, Liv. IV, Título LV. This specific ordinance was debated at length by Brazilian and Portuguese jurists in the nineteenth century in the context of abolition. For a discussion of this debate, see Mariana Armond Dias Paes, “O tratamento jurídico dos escravos nas ordenações Manuelinas e Filipinas,” *Anais do V Congresso Brasileiro de História do Direito*, 529-531. The *Ordenações Filipinas* did, however, declare that the right of revocation could not be transmitted to the relatives or descendants of the slaveowner. In other words, should the slave master die before the freed person, no other individual could revoke the manumission of a slave, since that right stayed with the original “donor.”

⁹⁸ Across 22 notarial books from Campos dos Goitacazes, Márcio de Sousa Soares found 3 revocations. Márcio de Sousa Soares, *A remissão do cativo: a dádiva da alforria e o governo dos escravos nos Campos dos Goitacazes, c. 1750 – c. 1830* (Rio de Janeiro: Editora Apicuri, 2009). For Paraty, James Kiernan located six cases between 1798-1822. Kiernan, *The Manumission of Slaves in Colonial Brazil*; In early nineteenth-century Rio de Janeiro, Mary Karasch found 13 revocations among a sample of 1,319 manumissions. Karasch, *Slave Life in Rio de Janeiro*. For Porto Alegre between 1800 and 1835, Gabriel Aladrén found no instances of revocation in notarial records; however, many letters included threats of revocation for ingratitude and disobedience. Gabriel Aladrén, “Alforria, paternalismo e etnicidade em Porto Alegre, 1800-1835,” *Anos 90* 15, no. 27 (2007), 135.

and Felipe da Fonseca Araújo. From the perspective of slave owners, they revoked not necessarily freedom itself, but rather the promise of a future freedom.⁹⁹ Slave owners wielded the threat of revocation over their slaves hoping they would honor the obligations outlined in manumission records. If revocation was a right, it was as much a form of defense against future libertos as it was a show of power. That revocations occurred at all suggest that slaves developed their own, sometimes conflicting, views on what freedom was, outside and beyond what bolstered the moral authority of slave holders. As years passed and slaves waited on the death of their master for their full legal freedom to take effect, bonds of dependency loosened, attitudes changed, and conditionally manumitted slaves sought to build on accumulated and gradual freedoms, and personal and communal autonomy.

In 1759, an enslaved man named Salvador was conditionally manumitted with the obligation that he serve and accompany his master, Maria da Assumpção, until her death. Nearly twenty-two years later, in 1782, Maria da Assumpção believed she had “many just causes” to revoke his conditional freedom, alleging that “Salvador, forgetful of his privileges, has not only been ungrateful to his master, but also has not fulfilled his obligations.” Moreover, the revocation alleged, Salvador ran away and “remained outside of her company.” Twenty-two years after his future freedom was contracted, Salvador fled Assumpção’s house, taking his freedom into his own hands.¹⁰⁰

What did slave owners like Maria da Assumpção imagine the intended effect of a revocation would be? Was this seen as a punishment? A show of power? A strategic move to (re)establish their authority over slaves? Officially revoking Salvador’s freedom perhaps also unequivocally protected her right to have Salvador returned to her by local or regional authorities.

⁹⁹ Soares, *A remissão do cativo*, 183.

¹⁰⁰ ANRJ, PON, Liv. 154, 73v-74.

Salvador's revocation was also a means of documenting that which was so central to the maintenance and conferral of legal freedom: gratitude towards one former master. That Salvador was "forgetful of his privileges" suggests that Maria da Assumpção viewed his actions as ungrateful and that he did not recognize her authority and benevolence as the donator (doadora). Since Salvador had already left her house, the execution of the revocation leaves one wondering if the simple act of writing up a revocation before a notary was a way of piecing together a fractured sense of power.

In July 1803, Francisco Mariano de Proença and Joaquina Luiza de Macedo approached Luiza Ferreira da Conceição, offering to purchase her slave, Joaquina, an enslaved woman from the Mina coast. For over a year before this proposition, Proença and Macedo had hired Joaquina's services from her master at a price of 3\$200 réis per month to raise their newborn child. Now expecting another child, Proença and Macedo wished to permanently retain Joaquina's labor. Joaquina and her master, Conceição, may have already established an agreement between themselves that she would soon be freed, because when Conceição agreed to the sale, she did so only on the condition that Joaquina be freed exactly three years after the bill of sale. On July 10, 1803, Luiza Ferreira da Conceição drew up a bill of sale that declared that Joaquina was to be freed after three years of service to Proença and Macedo in remuneration for the "affection and endearment that [Joaquina] has shown in raising their children."¹⁰¹

Three months later, Proença and Macedo petitioned a local judge in order to revoke Joaquina's promised freedom because of "ingratitude, disobedience, and injury committed against [Proença and Macedo]."¹⁰² According to Proença and Macedo's version of accounts, one day

¹⁰¹ Bill of sale, July 10, 1803, ANRJ, Relação do Rio de Janeiro, mc 215, n. 1406, hereafter *Proença & Macedo v. Joaquina*."

¹⁰² Petition dated October 25, 1803, *Ibid.*, 2.

earlier that September, while Proença was travelling outside of Rio de Janeiro, a verbal and physical argument broke out between Macedo and Joaquina. Joaquina, Macedo alleged, acted disobediently. Angered by a “petulant response,” Macedo struck Joaquina, starting a physical struggle between the two. Joaquina “approached the plaintiff, her master, placing her hands on her neck and arms, biting her several times on the arms, giving her several scratches...” Macedo also alleged that her six-month-old child, whom Joaquina had been raising, was also attacked until Macedo was able to remove her from the situation.¹⁰³

The conflict began over accusations by Macedo against Joaquina that she had either misplaced or stolen a piece of cloth kept within their home. Neighbors described shouting from within the home. The conflict heightened when Joaquina expressed “offensive words” that questioned the legitimacy of her enslavement and Macedo’s dominion over her. Macedo originally stated that Joaquina said, “to her that she was not her master, and that Joaquina, by raising [Macedo’s daughter] was paying back the money she had paid for her.” One witness recalled that Joaquina yelled “that she was not Macedo’s slave nor was Macedo her master.” Another witness heard Joaquina say “that Macedo was not her master because she was freed.” A final witness confirmed Joaquina claimed “Macedo was not her master and that Joaquina was raising her child to pay back what [Macedo] had paid for her.”¹⁰⁴

Joaquina’s verbal dissent prompts many possible interpretations of her statement that Macedo was “not her master.” Could Joaquina have implied that she only recognized Conceição’s authority (her former master who sold her on the condition of a promised freedom)? Or did she believe that, as one neighbor recalled her saying, she was a freed woman? The legal documents

¹⁰³ *Ibid.*, 7v-8. Proença and Macedo also included a brief medical report by a local doctor with descriptions of the injuries. See *ibid.*, 37.”

¹⁰⁴ For witness testimonies, see *ibid.*, 27-33v.

that make Joaquina's verbal dissent available to us were never intended to capture her true feeling. They were only recorded in the service of proving that her "offensive words" embodied, beyond the physical attack, an act of disobedience. Rather than use the witness statements to determine precisely what Joaquina meant, it is perhaps more productive to think about what the different accounts of her words shared: a complete disavowal of Macedo's moral authority and legal dominion over her. Whether or not Joaquina believed that she was freed or a slave, what is evident across the recollections of her words (and perhaps what witnesses heard), was a refusal to acknowledge bonds beyond the obligation that conditioned Joaquina's freedom and enslavement.

Proença and Macedo's lawyer, José de Oliveira Fagundes, well-known in the city for his work representing the Santa Casa de Misericórdia and defending conspirators during the *Inconfidência Mineira*, applied a strict reading of Joaquina's dissent against the backdrop of laws governing donations in the *Ordenações Filipinas*. Fagundes framed Joaquina's "offensive words" and the physical altercation as distinct displays of ingratitude. In the *Ordenações Filipinas*, the second justification for revoking donations was if the recipient attacked the donator "with the intent to injure them." Fagundes argued that this was precisely what Joaquina intended when she attacked Macedo. Fagundes next cited the revocation clause for manumission, linking Joaquina's dissent as a form of ingratitude to the person who conferred the manumission.¹⁰⁵

Firmly rooted in the *Ordenações Filipinas*, Fagundes and his clients presented a clear argument that, in theory, enabled them to revoke their promise to free Joaquina within three years. Yet in focusing on the applicability of the revocation clause to this conflict, Fagundes ultimately overlooked one contradiction eventually raised by Joaquina's *curador* (legal representative), Teotônio Ribeiro da Paiva: did Macedo and Proença have the right to revoke Joaquina's promised

¹⁰⁵ Fagundes' case is elaborated between *ibid.*, 35-36.

freedom in the first place?¹⁰⁶ Or put differently: who had the right to revoke Joaquina's manumission? Her former or her new masters? Joaquina's manumission was, after all, granted as a condition of the sale by her previous master, Luiza Ferreira da Conceição. Paiva did not waver from this line of argumentation, succinctly and unequivocally stating from the beginning of the suit that "the said plaintiff does not have the right to reclaim this freedom." In his last response to the Fagundes' claims, apparently frustrated with the limited ways to keep making the same argument, Paiva concluded that, "I have already said, and return to say, that the right of the reclamation of freedom rests solely with who conferred it. And since [the plaintiffs] did not confer it...it follows that the suit is insufficient, because there is no agreement to reclaim the freedom with who originally conferred it."¹⁰⁷ For her involvement in the original sale, Luiza Ferreira da Conceição was also summoned to appear in the suit. Her own lawyer concurred with Paiva that Joaquina committed no act of ingratitude against the person who granted the conditional freedom, his client. Interestingly, they did not share Conceição's opinion on whether the incident warranted any revocation of freedom, but instead reinforced that it was not Macedo and Proença's right to revoke.

On July 16, 1806—three years after the original sale and six days after the original deadline when Joaquina would be freed—the *Ouvidor Geral do Cível*, Luís José de Carvalho e Melo, determined that Macedo and Proença had no right to revoke Joaquina's freedom. His decision was based on a close reading of the original bill of sale, which Melo explained either made Conceição the granter of freedom or made all three individuals responsible for the final decision. In either case, Conceição gave no indication that she wished to revoke the promise of

¹⁰⁶ Teotônio Ribeiro da Paiva was nominated Joaquina's *curador* by Luís José de Carvalho e Melo after Proença and Macedo initiated their first petition.

¹⁰⁷ *Proença & Macedo v. Joaquina*, 39.

freedom.¹⁰⁸ Melo's decision likely came as a shock to Macedo and Proença, who now had to honor Joaquina's freedom as they moved onto the appeals process and were responsible for the legal fees for the three-year case. In fact, they did initiate the appeals process; however, the court record abruptly ends with no indication that the conflict continued in or outside the courts.

In an unexpected turn of events, Joaquina's future freedom depended on a defense of slave owners' power of revocation, rather than a challenge to it. To protect her conditional manumission, Joaquina's *curador* argued that the legal revocation clause imbued only the person who "donated" Joaquina's future freedom with the power to revoke. Neither Paiva nor Conceição's lawyer challenged the allegations that Joaquina was ungrateful or lashed out physically against her new master and her child. Instead, what they showed was that Joaquina committed an act of ingratitude to the person who was to honor her freedom, and not the person who granted it.¹⁰⁹

Conclusion

As Pedro and Anjelica, the two conditionally manumitted slaves discussed in the opening of this chapter, made their way back across the Guanabara Bay to São Gonçalo, what might have been on their minds? Did they share a feeling of accomplishment, having guaranteed that at least at some point in their lives they could expect their full legal freedom? Was that feeling mixed with anguish? Perhaps they just wondered how long their master had to live.

We can only speculate what Pedro and Anjelica might have felt about their future freedom, but this chapter sheds light on the experiences of conditionally manumitted individuals like

¹⁰⁸ *Ibid.*, 39v.

¹⁰⁹ Michelle McKinley arrives to a similar conclusion in her study of Margarita, a freed woman who took her former master's children to court: "However, this case illustrates a grotesque realist conundrum: Margarita's ability to be free rested on the legal certainty (if not celebration) of Micaela's *property rights in her* and Micaela's unencumbered freedom to dispose of her property as she saw fit." Michelle A. McKinley, "Till Death Do Us Part: Testamentary Manumission in Seventeenth-Century Lima, Peru," *Slavery and Abolition* 33, no. 3 (2012), 389.

themselves as they navigated and negotiated the winding paths to full legal freedom. Conditional manumission placed legal freedom on an uncertain horizon over a broader landscape of customary practices, informal bonds, contractual obligations, and personal, often intimate expressions of power. Using the promise of a future freedom, slave owners not only set out to profit from manumission in material, social, and spiritual ways, they also sought to define and strengthen their mastery. By outlining the consequences of ingratitude for their conditionally manumitted slaves, slave owners reaffirmed their power and underscored that legal freedom was something they alone conferred.

For as much as conditional manumission reinforced slave owners' power, enslaved people who received it revealed themselves to be shrewd and perceptive interpreters of its meanings, its limits, and even some possibilities it engendered. Ultimately, there were no Portuguese laws or codes that governed conditional manumission. Any principles surrounding conditional manumission that originated in Roman law, moreover, would be inconsistently applied in colonial Brazil. On the one hand, this meant that slave owners could be the architects of a manumission that yielded similar and different kinds of profits than paid manumission. At the same time, the silences surrounding conditional manumission also allowed slaves to find ways to impose their own will on the process of conditional manumission. Some slaves probably recognized that conditional manumission was the most feasible way for them to achieve their manumission. They exchanged continued service to their masters, but also negotiated within (and surely outside of) the manumission record. Within the manumission record, we see that slaves asked for dress, or made slave owners promise not to sell them to distant lands. (That such promises had to be made even in a conditional freedom letter is telling.) We also see that they negotiated their removal from slave-owning families' *terça* and *meação*. This ensured there would be no threat of having one's

freedom voided by opportunistic heirs. What is more, conditionally manumitted people like Maria das Virgens revealed how enslaved people determined what was fair and feasible.

We should conclude this chapter by underscoring two aspects of conditional manumission that may help us rethink its place alongside other forms of manumission. The first aspect concerns the in-between status of future libertos. Since their social and legal status as either entirely freed or slave was not clearly delineated in either manumission records or codified law, we should consider that a small but important subsection of the colonial population lived with explicit conditions governing a future freedom. This is not reflected in the population data we collect for colonial Brazil. Second, we should underscore the long lives and afterlives of conditional manumission. We have no clear way of knowing how long future libertos waited for their masters' death. One example from Goiás in Central Brazil indicates that an enslaved man named José Mina waited twenty-nine years before his master died.¹¹⁰ If comments in the margins of manumission records are any indication, it was anywhere between a few years to a few decades before legal freedom would take full effect, so long as future libertos outlived their masters.

¹¹⁰ Mary Karasch, *Before Brasília: Frontier Life in Central Brazil* (Albuquerque: University of New Mexico Press, 2016), 278.

CHAPTER 2

Freedom in the Metropole: Sailors, Servants, and Runaways Between Brazil and Portugal

*Nosso Sinhô chegô
Cativeiro já acabô.*

*Our master/Prince has arrived
Slavery is over.*

When the Portuguese court arrived in Rio de Janeiro in 1808 after being expelled from Lisbon by Napoleon's invading army, some slaves, perhaps many, believed that their emancipation from slavery was imminent. Some took to the streets and sang that "Slavery is over," a verse that would have stopped slave and master alike in their tracks. On the *Engenho do Morro*, situated in the rural parish of *Nossa Senhora da Piedade de Inhomirim*, an even more disruptive series of events ensued. Boaventura, an enslaved man from Mozambique, "caused a rebellion on the farm...saying that everyone including him and his fellow slaves [*parceiros*] were free." Convinced of his freedom, Boaventura approached the former viceroy of Rio, the Conde dos Arcos, "requesting that he issue or order his letter of manumission." Observing the swelling fervor from the presumption of imminent freedoms by Rio's enslaved population, the city's newly appointed police intendant remarked, "Everyone knows that the thousands of slaves who exist in Brazil are hopeful that with the arrival of His Royal Highness here they will be liberated from their captivity."¹

Why did enslaved people believe they would be emancipated with the arrival of the Portuguese court to Rio de Janeiro? The answer to this question dates back to September 19, 1761,

¹ For the song, see Adolfo Morales de los Rios Filho, *O Rio de Janeiro Imperial* (Rio de Janeiro: Topbooks Editora, 2000), 78; For Boaventura, see BNRJ, C-0171,003, doc. 6, 3; For the Police Intendant's remarks, see Kirsten Schultz, *Tropical Versailles: Empire, Monarchy, and the Portuguese Royal Court in Rio de Janeiro, 1808-1821* (New York: Routledge, 2001), 166. On manumission and the presence of the Portuguese court, see Keila Grinberg "Alforria, direito e direitos no Brasil e nos Estados Unidos," *Estudos Históricos* 27 (2001), 71.

when Portugal's secretary of state, the Marquês de Pombal, abolished the slave trade to Portugal. Concerned with the "extraordinary number of black slaves" who were transported to the metropole every year, Pombal ordered that any enslaved person who stepped foot in Portugal would be a "liberto and forro by benefit [of the law]." In his attempt to gradually eradicate the presence of slaves and prevent the introduction of new ones into the metropole, Portugal effectively became free soil. One decade later, Pombal also passed a free womb law, declaring that thereafter any children born to enslaved women would be legally free. The news of both decrees reverberated throughout Brazil and the Portuguese Empire, and had consequences far beyond what Pombal could have imagined. Enslaved people came to understand the Portuguese court as a geography of legal freedom in the second half of the eighteenth century. Thus, as enslaved people spoke (and sang) confidently about their emancipation in the wake of the court's arrival to Rio de Janeiro, they in fact believed themselves to be standing on free soil.

Enslaved peoples' awareness and creative interpretation of imperial legislation in that historic moment speaks to a powerful but largely unexplored legacy of trans-Atlantic claims-making between Brazil and Portugal. This chapter explores the experiences of enslaved travelers to Portugal who believed that their arrival in the court would free them. It considers the collective influence of these enslaved individuals as they refracted the meanings of the 1761 decree for their own purposes. I draw on petitions, legal suits, travel licenses, royal orders, and colonial correspondence to understand how enslaved people forged and acted on their own interpretations of the 1761 decree. I also look more closely at Black brotherhoods in Lisbon who assumed roles as local intermediaries. This chapter argues that in the wake of the 1761 decree, enslaved people strategically brought their contests against Atlantic slavery directly into the heart of the empire,

inverting the decree's original purposes. In so doing, they shaped the meanings of free soil and widened the application of the law.

The chapter begins by situating the 1761 decree in its historical and historiographical context. Historians have widely debated Pombal's intentions in passing legislation that, at least on the surface, appeared to question the legitimacy of slavery, and he continues to figure comfortably in Portugal's public memory as an abolitionist ahead of his time.² I suggest that Pombal, rather than attacking slavery, sought to underscore its legitimacy in Brazil. He wanted to reconstruct a metropole free of it in the wake of the 1755 earthquake, and a metropole whose image could compete with the other "polite courts" of Western Europe. My discussion then turns to the sailors, servants, and runaways who pressed imperial officials to honor the 1761 decree and to confer their freedom. Imperial officials revised and amended the 1761 decree to prevent enslaved people from using it for purposes other than what it was created for; however, they could not prevent nor control the creative ways enslaved people, often successfully, deployed it. In the final section, I focus on the allies of slaves in Lisbon who helped to pull the strings and work the legal system from behind the scenes: the city's Black brotherhoods. Representatives of the Black brotherhoods lined themselves along Lisbon's docks waiting to meet the enslaved who arrived on ships in order to help them navigate the city. As we will see, they even crafted elaborate networks and loopholes in the city to deceive imperial officials and fool slave owners. Members of these brotherhoods proved instrumental in facilitating the appeals process. Importantly, they advocated for the full enforcement of the decree.

² "Portugal reconheceu injustiça da escravatura quando a aboliu em 1761, diz Marcelo," *Público*, April 13, 2017, <https://www.publico.pt/2017/04/13/politica/noticia/portugal-reconheceu-injustica-da-escravatura-quando-a-aboliu-em-1761-diz-marcelo-1768680>.

The 1761 Decree in Historical and Historiographical Perspective

The decree of 1761 was carried out during the period of imperial reforms headed by the Marquês de Pombal during the reign of King José I (1750-1777), especially following the 1755 earthquake that nearly levelled Lisbon. These reforms, the reasons and outcomes of which historians have debated extensively, were aimed at centralizing the Portuguese economy and its imperial administration.³ The decree abolished the slave trade to Portugal. It declared that any slaves who entered Portuguese ports thereafter would be immediately freed. The decree cited a few justifications for the relatively sudden measures taken against the import of slaves into the kingdom. The opening lines stated that the “extraordinary number of slaves” who entered Portuguese ports from Africa, Brazil, and Asia caused a “[lack of slaves] for the cultivation of land and mines,” and ordered that “all [slaves] who arrive to these kingdoms, after the grace periods from the publication of this decree, will be freed by benefit of decree.”⁴ In anticipation of a significant problem in the decree’s execution, it also stated that fugitive slaves from Brazil would not be granted their freedom under the decree.

Uncertainties in the decree’s text pressured imperial officials in Portugal to revise and restate its terms at various points in the fifty years following its release. The first of these revisions responded to confusion over racial language within the text, specifically whether or not the decree’s use of the term *preto*, which in the eighteenth century implied an African-born person, excluded *pardo* slaves from manumission under the decree. This matter came before the crown in 1767 when a slave named Severino de Sousa requested that he, a *pardo*, benefit from the 1761

³ On the Pombaline reforms in an imperial context, see Gabriel Paquette, *Imperial Portugal in the Age of Revolutions: The Luso-Brazilian World, c. 1770-1850* (Cambridge: Cambridge University Press, 2013), chapter 1, and Kenneth Maxwell, *Pombal, Paradox of the Enlightenment* (Cambridge: Cambridge University Press, 1995).

⁴ Lara, *Legislação sobre escravos*, 345. The decree allowed for a grace period of six months after the publication of the decree for Brazil and Africa, and 1 year for Asia. This ensured the dissemination of the decree to colonial administrators in every part of the empire.

decree. In response to Sousa's petition, a royal *aviso* concluded that the decree not be limited to African-born slaves, "because it is not fair that their black [preto] father and mothers are free because of the law, and their children are slaves."⁵ Severino de Sousa's petition and the *aviso* that resulted from it widened the scope of the decree by clarifying that pardos, and not only pretos, could gain their freedom.

A decade later, in 1776, imperial officials addressed another gray area in the decree's text: enslaved sailors who entered Portuguese ports temporarily as crew on ships. Enslaved sailors were integral members of a ship's crew, particularly on slaving voyages, where they were expected to act as interpreters between slaves below deck and those in charge of the vessel. Slaving voyages between Brazil and Africa regularly stopped in Lisbon to retrieve supplies or to attend to any business that a captain had. Arguably the most significant of the decree's revisions was announced on February 22, 1776, when an *aviso* stated that a ship's enslaved crew members, so long as they were registered on the ship's matriculation, would be exempt from manumission under the 1761 decree.⁶ As we will see, the 1776 decree emerged in direct response to enslaved sailors appealing for their freedom when passing through Portugal.

Together, with Pombal's 1773 decree freeing fourth-generation slaves and initiating a free womb law in Portugal, Pombal's slavery decrees became landmark pieces of law in the Portuguese world.⁷ In the nineteenth century, Brazilian and Portuguese abolitionists, jurists, and historians offered divergent interpretations of Pombal's slavery decrees. In both Brazil and Portugal, the

⁵ *Ibid.*, 350-351.

⁶ *Ibid.*, 361-362. Other revisions or clarifications included that from 1763, which clarified that the use of "pretos" and "pretas" in the decree's text extended to any slaves of African descent. In this era, *preto* and *preta* typically signified a slave or free Black born in Africa. Thus it was unclear whether individuals considered pardo or mulato were exempt.

⁷ For the 1773 decree, see *ibid.*, 359-360, and Jorge Fonseca, "As leis pombalinas sobre a escravidão e as suas repercussões em Portugal," *Africana Studia* 14 (2010), 29-36. On its impact in Brazil, see Luiz Geraldo Silva, "Esperança de liberdade": Interpretações populares da abolição ilustrada (1773-1774)," *Revista de História* 144 (2001), 107-149

historical memory of the Pombaline decrees shaped how abolitionists and lawyers fashioned these decrees for their own purposes. This historical memory, which propagated the myth that the decrees fully abolished slavery, served as the basis for arguments against slavery based on the assumption that an abolitionist tendency in Portugal long favored the freedom of slaves. In a discourse presented to the *Instituto dos Advogados Brasileiros* in 1863, the abolitionist A.M. Perdigão Malheiro, discussing Portugal's eighteenth-century legal culture, declared that "Portugal, convinced of the just cause of liberty, completely abolished slavery in the metropole, declaring that no one could be born a slave."⁸ While the latter half of the statement that "no one could be born a slave" is true with regards to the 1773 free womb decree, the former half of the statement that the decrees abolished slavery is the most common misconception of the decrees. This persists even in some current scholarly publications.⁹ Portuguese jurists, working within a similar paradigm as Perdigão Malheiro, came to understand the Pombaline laws as creating strict divisions between metropole and colony, in which slaves only existed in Brazil and Africa.¹⁰ Ultimately, both nineteenth-century interpretations incorrectly assigned Pombal abolitionist tendencies, and treated Portugal as territory free from slavery after 1761 and 1773.

In the mid-twentieth century, historians took a renewed interest in Pombal's policies, and specifically his supposed "anti-slavery" measures.¹¹ Like nineteenth-century abolitionists, some works still propagated the belief that the decrees abolished slavery in Portugal, but added that they were imbued with a moral character. João de Saldanha Oliveira e Sousa, in an address to the

⁸ A. M. Perdigão Malheiro, *Illegitimidade da propriedade constituída sobre o escravo. Natureza da mesma. Abolição da escravidão; em que termos* (Rio de Janeiro: Typographia de Quirino & Irmão, 1863), 95-96.

⁹ See for instance Richard Gordon, Insights into Slavery and Abolition in an Eighteenth-Century Portuguese Interlude: Novo, e divertido Entremez Intitulado O contentamento Dos Pretos Por terem a sua Alforria," *The Bulletin of Hispanic Studies* 87, no. 8 (2010), 995-1020.

¹⁰ Silva and Grinberg, "Soil Free from Slaves," 437-442.

¹¹ For a thorough bibliographic essay regarding Pombal, see Maxwell, *Pombal: Paradox of the Enlightenment*, 167-174.

Congresso do Mundo Português, discussed the “noble intentions and pure sentiments that guided the energetic minister of D. José I in his long campaign against the hideous slavery, and he became one the most notable abolitionists.”¹² Criticizing abolitionist explanations, in 1973 Fernando Novais and Francisco Falcon stressed Pombal’s economic motivations. Identifying a certain “industrial development from Pombal’s mercantilism,” Novais and Falcon read more literally the decree’s text, which stressed the need for a steady supply of slaves to Brazil, and the stagnating effects of slave over free labor in Portugal. They read Pombal’s slavery decrees as enforcing mercantilist policies and strengthening national politics and economy.¹³ While Pombal’s broader reforms addressed questions of economy and commerce, some of the justifications for the 1761 decree make little sense considering the relatively small number of slaves entering Portuguese ports in the eighteenth century.

Another line of argumentation posits that reforms surrounding political culture within Lisbon, especially following the 1755 earthquake, explain Pombal’s slavery decrees. For these historians, the 1761 decree’s reference to the “laws and customs of other polished Courts” prompts questions about the nature of slavery and the presence of African-descended peoples in Western Europe. By creating a European kingdom free from the effects of slavery and the slave trade, Portugal would be considered a more civilized and civilizing space, free from the disorders caused by slavery.¹⁴

¹² João de Saldanha Oliveira Sousa (Marquês de Rio Maior), “O Marquês de Pombal e a Repressão da Escravatura: A Obra e o Homem,” Lisbon: Companhia e Imprensa na Tipografia Inglesa, 1943.

¹³ Fernando A. Novais and Francisco C. Falcon. “A extinção da escravatura africana em Portugal no quadro da política pombalina,” in *Aproximação: estudos de história e historiografia* (São Paulo: Cosac Naify, 2005). Other works that stress the economic motives of the decrees include Charles Boxer, *Race Relations in the Portuguese Colonial Empire* (Oxford: Clarendon Press, 1963); Stuart Schwartz, *Sugar Plantations in the Formation of Brazilian Society: Bahia, 1550-1835* (Cambridge: Cambridge University Press, 1985), 478.

¹⁴ For examples of this argument see, Silva and Grinberg, “Soil Free from Slaves”; Silva, “Esperança de liberdade”; Didier Lahon, “O escravo africano na vida económica e social Portuguesa do antigo regime,” *Africana Studia* 7 (2004), 73-100; Didier Lahon, “Eles vão, eles vêm. Escravos e libertos negros entre Lisboa e o Grão-Pará e Maranhão (séc. XVII-XIX),” *Revista de Estudos Amazônicos*, VI (2011), 70-99.

A comparative lens on issues of free soil helps us link Portugal's free-soil decree with the country's perception of other European metropolises who also held overseas territories dependent on slave labor. Other metropolises debated and confronted in explicit terms the legal existence of slavery on their soil. The idea that Pombal abolished slavery in Portugal has in France its corollary in the maxim that "there are no slaves in France." Here, the work of Sue Peabody on eighteenth-century France is especially instructive. As Peabody shows, as early as 1716 and 1738, French imperial officials were creating legislation to regulate the introduction of slaves in France and to control the length of their stay. In 1759, only two years before Pombal's first slavery decree, French Parliament issued a ruling on the case of Francisque, an enslaved child purchased in India, and upheld the free-soil principle. Finally, in 1777, France's Minister of the Navy proposed the *Police des Noirs*, which prohibited the entry of any individuals of African descent into France, using race instead of slave status as the measure for entry. Given the international circulation of news and events, we have to imagine that Pombal came to learn of the legal and cultural discourses shaping free soil measures in Western Europe. Pombal himself had also worked as an ambassador, first to Great Britain and then to Austria, and likely brought with him into his post as Portuguese Secretary of State opinions on Portugal's relations to other Western European courts.¹⁵

Occurring a decade after Pombal's 1761 decree, the Somerset case and Lord Mansfield's ruling in 1772 further highlights the contemporaneous debate on questions of free soil in Western Europe. The Somerset case revolved around Charles Stewart, a British customs official from Massachusetts, and his West African slave, James Somerset, who was brought to England in 1769

¹⁵ Sue Peabody, "*There Are No Slaves in France*": *The Political Culture of Race and Slavery in the Ancien Régime* (Oxford: Oxford University Press, 1996); Sue Peabody, "The French free soil principle in the Atlantic world," *Africana Studia* 14 (2010), 17-27; Sue Peabody and Keila Grinberg, "Free Soil: The Generation and Circulation of an Atlantic Legal Principle," *Slavery and Abolition* 32, no. 3 (2011), 331-339, and more generally, the special issue of which this essay introduces.

during a business trip. While in England, Somerset escaped his master only to be recaptured and ordered to be sent to Jamaica. With the intervention of British abolitionists, who secured a habeas corpus, Somerset was brought before Lord Mansfield, initiating a case that had wide-ranging ramifications for law and slavery in the Anglo-Atlantic. Historians of law, slavery, and empire have debated Lord Mansfield's ruling in favor of Somerset, and whether or not Somerset's case set precedents for the legality of slavery in England. What is clear, nevertheless, is that the case sparked a significant and divergent set of ideas and practices about the distinctions between metropole and colony with regards to slavery.¹⁶ Unlike France and England, Portugal's slavery legislation, and the constellation of popular beliefs surrounding it, did not stem from a specific court case that introduced a precedent. Rather, it was the actions of slaves that gave meaning to the decree after its publication.

“[They] Do Not Want to Continue the Trip”: Enslaved Sailors Dropping Anchor in Lisbon

Sometime in the final decades of the eighteenth century, Francisco de Paula, an enslaved sailor born in Rio de Janeiro, petitioned the Portuguese crown requesting his manumission. Paula argued that his more than twenty-seven years of enslavement had provided his master returns of more than five or six times his own worth.¹⁷ According to Paula, he completed “many and repeated trips...on various ships to Porto and Lisbon, and to other places in Portugal, and as many from America as from Asia and Africa.” Having served multiple times on ships bound for Portugal, Paula believed that he “certainly acquired his freedom as declared in the royal decree of September

¹⁶ Dana Rabin, “‘In a Country of Liberty?’: Slavery, Villeinage and the Making of Whiteness in the Somerset Case (1772),” *History Workshop Journal* 72 (2011), 5-29; W.R. Cotter, “The Somerset Case and the Abolition of Slavery in England,” *History* 79 (1994), 31-56; George Van Cleve, “Somerset’s Case and Its Antecedents in Imperial Perspective,” *Law and History Review* 24 (2006), 601-645.

¹⁷ BNRJ, C-420, 49. A transcription of this petition is also published in Manolo Florentino, “Alforrias e etnicidade no Rio de Janeiro oitocentista: notas de pesquisa,” *Topoi* (2002), 33.

19, 1761.” Paula’s petition, which was denied on the grounds that he pursue normal channels (*use dos meios competentes*), reveals some of the key strategies employed by slaves seeking their freedom within the framework of Portuguese legislation. His petition represented a belief in what A.J.R. Russell-Wood calls “the social contract between sovereign and subject” and the “expectations of sovereigns as protectors of the disadvantaged and downtrodden,” that came to shape slaves’ perceptions of the monarchy by the late eighteenth century.¹⁸ Moreover, by identifying as a vassal of the Portuguese crown, Paula made a political claim that pressed imperial officials to consider his eligibility for Pombal’s 1761 decree. Ultimately, Francisco de Paula is only one example of the decades-long effort by slaves to reach Portuguese shores and make claims on their freedom in Portugal’s free soil.

By the end of the eighteenth century, the presence of enslaved sailors on ships, many of whom served on slaving voyages between Brazil and Africa, was an increasing facet of maritime culture. Enslaved sailors were integral in the circulation of knowledge and news about the Portuguese Empire, and built webs of connections between themselves, slaves held below deck on slaving voyages across the Atlantic, and slaves in port cities. In a sample of two hundred and thirty enslaved sailors from registered ships in Portugal, one hundred and forty sailors identified as West Central African, forty-eight as West African, and twelve identified as from Portugal. Only seven enslaved sailors were identified as Brazilian. While this sample only includes vessels that stopped in Portugal, and not those that travelled directly between Angola and Brazil, the presence of African-born sailors is evident. Furthermore, the *Junta do Comércio*, which oversaw matters of commerce in the metropole, stressed the benefits of using enslaved over free sailors especially in slaving voyages. Enslaved Africans employed as sailors, they believed, could act as intermediaries

¹⁸ A.J.R. Russell-Wood, “‘Acts of Grace’: Portuguese Monarchs and Their Subjects of African Descent in Eighteenth-Century Brazil,” *Journal of Latin American Studies* 32, no. 2 (2000), 308.

between the ship's free crew and the slaves below deck. In 1777, for example, the captain of the *Portilhão*, Felix José da Costa, was told "to get rid of white sailors [after landing in Benguela] and substitute them with black sailors, who are more experienced with this kind of trip and dealing with slaves."¹⁹

Shortly after the publication of the 1761 decree, enslaved sailors took advantage of the vagaries surrounding its applicability to their situations. Although much of the documentation on slave sailors petitioning the crown appears during and after the 1780s, a 1776 revision to the 1761 decree suggests that enough sailors were finding loopholes that new measures were necessary. In an *aviso*, or notice, in February of 1776 from the Marquês de Pombal, it was declared that "*preto* or *pardo* slaves may come to this kingdom if they are sailors" going on to state that,

...all slaves of whatever quality they may be that come to the port of Lisbon and other ports of these kingdoms...in no way shall be treated under the said decree, as long as they are enrolled on the ship's crew log, with the names of their masters declared.²⁰

That the *aviso* referenced *preto* and *pardo* slaves speaks to actions be enslaved people like Severino de Sousa, whose petition about *pardo* slaves widened the scope of the decree. Moreover, the 1776 notice became increasingly significant for decisions in favor of or against petitioners, acting as the final measure for distinguishing between a slave sailor and a slave travelling in violation of the 1761 decree. Colonial officials in Brazil learned about the revision regarding sailors and not only confirmed its receipt to Lisbon but also warned ship captains before departing for Lisbon that any slaves not registered with the ship's crew would be freed in Portugal.²¹

¹⁹ Mariana P. Candido, "Different Slave Journeys: Enslaved African Seamen on Board of Portuguese Ships, c. 1760-1820s," *Slavery and Abolition* 31, no. 3 (2010), Table 1; On Felix José da Costa, quoted in *ibid.*, 397. See also, Jaime Rodrigues, *De costa a costa: Escravos, marinheiros e intermediários do tráfico negreiro de Angola ao Rio de Janeiro (1780-1860)* (São Paulo: Companhia das Letras, 2005).

²⁰ Lara, *Legislação sobre escravos*, 361-362.

²¹ ANTT, Feitos Findos, Juízo da Índia e Mina (JIM), mç. 6, n. 13, cx. 373; AHU-Maranhão, cx. 50, doc. 4903.

In the years following the 1761 and 1776 decrees, slave sailors on ships docking in Portugal, with the assistance of local Black brotherhoods, found ways to deliver petitions and bring cases against their ship's captains in order to benefit from Pombal's decrees. The records of the *Intendência Geral da Policia*, which was charged with monitoring crime and disorder in Lisbon's port, reveal the frequency with which slave sailors petitioned for their freedom, and the terms on which they did so.²² Although the 1761 decree stated that the *Alfândega*, or customs house, was charged with issuing letters of freedom, officials like the Police Intendant also consulted on the cases. In 1786, for example, an African man named Lourenço da Silva and seven of his shipmates arrived in Lisbon on the *Santa Cruz* from Macau. Soon after they dropped anchor, a petition for manumission of the slave crew was delivered to the crown. Diogo Ignácio de Pina Manique, Lisbon's Police Intendant, was asked to comment on the petition. In his letter, Manique wrote that the petition cited two royal decrees, the 1761 decree, and another "resolution of your Majesty that favors those who are pagans, a state in which the supplicants claim to be." Manique suggested that the Casa da India also consult on the case given the ship was coming from Asia; however, they also determined the slaves should use the *meios ordinários*.²³ Three years later, in 1789, Manique consulted on the petition of Jacinto de Souza who sought to "free himself from slavery by benefit of the new law that gives freedom to all slaves who enter the ports of this kingdom." Sousa served as a cabin boy (*praça de grumete*), and, with his master Manuel de Souza, completed three trips to Bahia and two to Angola. Manique followed a strict interpretation of the 1777 notice and

²² The *Intendência Geral da Policia* was created in 1760 as part of the reforms to rebuild Lisbon in the wake of the devastating 1755 earthquake. The institution's contemporaneity with the 1761 decree further reinforces the notion of structuring and ordering the imperial court that drove the creation of the decree. See Maria Luísa Gama, "A intendência geral da polícia de Pina Manique (1780-1805): criação e construção de um novo paradigma na política penal em Portugal nos finais do antigo regime," *Revista Jurídica de la Universidad Autónoma de Madrid* 33 (2016), 97-119.

²³ ANTT, IGP, liv. 2, 222.

determined that Sousa, as a registered sailor, could not benefit from the 1761 decree. He concluded that Sousa should be “subject to slavery.”²⁴

We have more documentation to suggest that slave sailors not only received harsh and violent treatment from their masters, but that their claims to freedom may have also represented a refusal to participate in slaving voyages. In 1779, the ship *Nossa Senhora do Rosário Santo Antônio e Almas* arrived in Lisbon from Rio de Janeiro in order to procure supplies for a slaving voyage it planned to make to Benguela. Among the crew were five slave sailors, Vicente Ferreira, Ambrosio Roque, Manuel Pereira, Ventura Soares, and Caetano José, owned by Manuel Gomes Cardoso, a merchant in Rio de Janeiro, as well as the ship’s captain José Luis Viana and José Carneiro da Silva, a merchant in Benguela. Upon arriving, the five enslaved sailors soon petitioned Queen Maria I, for their letters of manumission. While the original has not been located, a secondhand account of the petition suggests that the sailors deployed two arguments for their freedom: their eligibility for the 1761 decree and the cruelty (*sevícias*) they suffered from Cardoso and his associates.

Cardoso arrived in Lisbon a few months after his slaves’ petition. Upon learning of their actions, he countered with an impassioned petition of his own objecting to their claims. According to Cardoso, it was not bad treatment or violent punishment that induced his slaves to seek their freedom, but instead the “advice and suggestions” of freed Blacks living in Portugal who convinced them to rebel against their master. Furthermore, he argued that these slaves were indispensable to the success of the ships’ voyages not only for the navigational duties they performed, but also their ability to communicate in West Central African languages. He requested

²⁴ ANTT, IGP, Liv. 3, 63v. For other examples of slave sailors found in the records of the Intendência Geral da Policia, and some further discussions of examples mentioned in this chapter, see Jaime Rodrigues, “Escravos, senhores e vida marítima no Atlântico: Portugal, África e América portuguesa, c. 1760- c. 1825,” *Almanack Guarulhos* 5 (2013), 145-177.

that Lisbon's *Provedor da Alfândega*, Joaquim Inácio da Cruz, send for witness testimonies of Brazilian merchants who could support Cardoso's claims, though the testimonies ultimately proved little use for Cruz. Instead, Cruz issued a *parecer* (opinion) in which he sided with Cardoso, citing little evidence of mistreatment and noting that the enslaved sailors were registered in accordance with the 1776 aviso. Cruz further argued that for slaving voyages like the one they were about to embark on, "it is indispensable to have black sailors to suffer the work on these voyages, and to understand the language of the blacks..." He concluded that customs officials in Rio de Janeiro should remain vigilant about conflicts and mistreatment between these slaves and their masters.

Although some historians argue that enslaved sailors enjoyed a degree of freedom not experienced by those working in cities or on plantations, surely the psychological impact of service on slaving vessels took their toll. That these five slaves sought to free themselves not only from slavery but also from service on slaving vessels suggests that participating in slaving voyages overshadowed or outweighed any autonomy they may have enjoyed. This is further supported by the fact that in the slaves' original petition, they proposed to remain in Portugal if their manumission could not be granted, wanting "only to be slaves in the kingdom, and not in Brazil." Given their knowledge of the 1761 decree, this group of enslaved sailors perhaps came to see Portugal as a space of protection against slavery and the slave trade. Cruz's *parecer* on the various petitions was issued on August 7, 1779 in favor of Cardoso and his associates.²⁵ While the available records do not reveal their ultimate fate, in December of that year their ship departed for Benguela.²⁶

²⁵ All materials on these petitions drawn from AHU-Rio de Janeiro, cx. 110, doc. 9172.

²⁶ Trans-Atlantic Slave Trade Database (TASTD), Voyage 47695, NS do Rosario S Antônio e Almas, accessed from <http://www.slavevoyages.org/voyage/47695/variables>.

A similar situation occurred about one year earlier when ten enslaved crewmembers of the *Nossa Senhora Senhora dos Prazeres e Santíssimo Sacramento* petitioned the crown for their freedom on the basis of the 1761 decree.²⁷ Of the ten slaves, nine belonged to Antonio de Sousa Portela in Angola, who rented his slaves' labor to the ship's captain.²⁸ The ship, which was en route to Angola from Pernambuco, stopped in Lisbon sometime in early 1778 when the ship's captain, José Antonio Pereira, discovered that one slave, Miguel Pinto Gaspar Mendes, had fled the ship and "undertook in the name of all the cause of freedom." When Pereira wrote his first petition challenging the slaves' claims, Mendes had already brought their case before a judge of the *Correição Cível da Corte*, and a decision was pending.²⁹ Meanwhile, Pereira feared that the dynamics between himself and the ship's slaves had deteriorated since their arrival to Lisbon. Although he argued that the ten slaves were brought to Portugal in a manner consistent with imperial laws, Pereira noted with trepidation that "the nine slaves still aboard do not want to continue the trip, and [he] fears that they will rebel, with no order to make them obedient."

After the *Correição Cível da Corte* found against the enslaved sailors, Mendes, who originally fled the ship and initiated the case, appealed the decision against him and his shipmates to higher authorities. He first appealed to Lisbon's Police Intendant, who inevitably sided with Pereira. Mendes then appealed to Alexandre José Ferreira Castello, a *desembargador*, who determined that Mendes and his shipmates should be freed because Pereira did not record the slaves' ages with the *Junta do Comércio*, nor was the master of nine of the slaves, who resided in Angola, properly disclosed in the ship's register. Angered by the decision, Pereira replied that "it

²⁷ AHU-Angola, cx. 67, doc. 1. All materials will be drawn from this citation unless otherwise noted.

²⁸ Renting the labor of a slave for maritime work was common in the late-eighteenth century. See Mariana Candido, "Different Slave Journeys," 399-400.

²⁹ AHU-Pernambuco, cx. 129, doc. 9759. The *acordão*, or judicial decision, in this citation refers to Mendes as the principal individual in the case. Therefore it is likely that he originally fled the ship.

is not practical to declare their ages because they do not know them.” The case continued to ascend up the imperial hierarchy, reaching the crown’s councilors for comment on Castello’s decision to free the slave sailors. Some councilors believed that because the slaves were only passing through Portugal, and not intending to stay, the 1761 decree could not apply to them. Furthermore, omission of identifying features, like age or the names of masters, was not sufficient to free the slaves. The councilors agreed that the crown should award the final decision. Although there is no existing record to show if Queen Maria I consulted the case, it appears that a final decision was made on April 11, 1778, when three members of the *Casa da Suplicação* overturned the decision to free the slaves.³⁰ On April 26, the ship departed for Luanda.³¹

The examples discussed here, only a sampling of those cases existing in Portuguese archives, reveals that regardless of the success rate, slave sailors saw their arrival in Lisbon as an opportunity to free themselves from their enslavement as sailors. Participating in the daily maritime duties that made Portugal’s empire run was perhaps one that many did not desire to contribute to. With different access to manumission than urban or rural slaves, slave sailors understood the 1761 decree as a measure of free soil that they could benefit from upon disembarking in Lisbon. However successful, we can imagine that stories of sailors (whether anecdotal or firsthand accounts) embroiled in freedom suits in Lisbon disseminated among shipmates throughout the South Atlantic.

³⁰ AHU-Pernambuco, cx. 129, doc. 9759.

³¹ TASTD, Voyage 47699, NS dos Prazeres e Santíssimo Sacramento
<http://www.slavevoyages.org/voyage/47699/variables>

Freedom “By Benefit of the Law”: Enslaved Servants Accompanying Their Masters

Slaves from Brazil who were not sailors found themselves in a more advantageous position upon arriving in Portugal with their masters. If the 1776 *aviso* protected ships and their captains from freeing enslaved crew members, there was no equivalent protection for slaveholders who travelled to Portugal with their slaves as servants. The 1761 decree restricted the introduction of slaves into Portugal through the slave trade; however, slaves who arrived in Lisbon for a set amount of time with their masters were better positioned to make claims on their freedom before their return trip overseas. Slaves circulated throughout the Portuguese Empire long before 1761, but with new imperial measures, travelling with enslaved servants acquired new meanings for both parties in the final decades of the eighteenth century.

Travelers to Portugal required a passport and license declaring the name of the traveler (the head of the household if it was a family), the desired length of time, the purpose of the trip, and any slaves or servants to make the trip. These licenses were typically pieces of paper—copies of which resided in Portuguese and Brazilian record books—that individuals kept with them to show authorization to reside in Portugal for a period of time. Records of the licenses not only reveal the frequency with which individuals travelled to Portugal, but also the control that imperial officials in Portugal sought to implement regarding who could travel within the Portuguese Empire. Given their increasing vigilance over movement within the empire, they took the travel of slaves to Portugal seriously with regards to the 1761 decree.

Imperial officials in Lisbon responding to requests for passports tried to preempt confusion about the 1761 decree by informing travelers that their slaves would be freed upon arriving in Lisbon. When Maria Joaquina Perpetua petitioned for a license to accompany her husband to Lisbon, she was permitted to “bring a slave to serve her, observing, however, the law of the

freedom of slaves that come to this kingdom.”³² In a more forceful manner, Fernando Dias Paes Leme da Camara was granted permission to travel with his wife and children, with the understanding that “the slaves he brings will be free according to the law.”³³ Fernando de Oliveira Guimarães was granted a license in October of 1800, and warned that his slaves would “soon be free after they arrive [in Lisbon].”³⁴ In at least one documented case, a slaveowner petitioned to be exempt from the consequences of travelling with slaves to Lisbon, requesting that his slave come to Portugal without “being free by benefit of the law.”³⁵ Moreover, travelers sometimes described in vaguer terms their intent to travel with *criados*, or servants. By describing their slaves as *criados*, which did not explicitly convey a legal status, slave owners tried to evade the 1761 decree. This was the case with Manuel Quaresma, who brought twelve slaves to Lisbon in 1805, but described them as *criados* in April of 1806 before returning to Rio de Janeiro.³⁶ Two of those *criados*, it came to be revealed, were in fact his slaves who managed to acquire their manumission, unbeknownst to their master, during the time they spent in Lisbon.³⁷

Slaveowners sometimes freed their slaves before departing for Portugal, hoping to exchange their freedom for servitude while in Lisbon. In March of 1782, Paulo Gomes Pereira was preparing to depart for Lisbon when he brought his slave, Pedro, before Rio de Janeiro’s notary. Pereira declared that he “intends to take [Pedro] in his company to the city of Lisbon,” and therefore, offered Pedro his freedom on the condition that he be “obliged to serve him only three

³² AHU-Códice 572, 67-67v. License for Maria Joaquina, June 7, 1780.

³³ AHU-Códice 572, 160. License for Fernando Dias Paes Leme da Camara, November 7, 1783.”

³⁴ AHU-Códice 575, 125v, n. 155. License for Fernando de Oliveira Guimarães.

³⁵ AHU-Rio de Janeiro, cx. 231, doc. 15789. See also the petition from Narciso Martins da Costa Guimarães, who left Porto with his slaves before the 1761 decree, but desired to return to Portugal with the same slaves. AHU-Bahia, cx. 156, doc. 11923.

³⁶ AHU-Rio de Janeiro cx. 236, doc. 16132.

³⁷ ANTT, Feitos Findos, Fundo Geral, Letra J, mç. 1464. See also the discussion in Renato Pinto Venancio, *Cativos do Reino: A circulação de escravos entre Portugal e Brasil, séculos 18 e 19* (São Paulo: Alameda Casa Editorial, 2012), 158-159.

years, and completing this will give him letter of manumission and freedom.” Should Pedro “not want to serve and leaves his company without being ordered or if he is disobedient, and fails his obligation, his freedom will not go into effect.”³⁸ A few months later, Antonio Ribeiro da Paiva also brought his Angolan slave Manuel before Rio’s notary to exchange his freedom for service during his travels in Lisbon.³⁹ By conceding that their slaves would be freed when in Lisbon, these individual slaveowners preempted disorder and disobedience in Lisbon by making their slave’s freedom conditional, and only valid if they remained obedient in Portugal. Using the promise of freedom allowed them, on paper, to secure at least a few years of service.

Conflicts regarding the manumission of slaves who were not sailors in Lisbon also highlight the opportunities that slaves seized to contest their slavery while in Lisbon. Slaves who accompanied their masters, with varying degrees of success, confronted imperial officials with the help of Black brotherhoods in order to gain their freedom. With aid from the Black brotherhood *Nossa Senhora do Rosário*, Antonio Manuel dos Santos, a slave born in São Tomé, successfully gained his manumission from the Casa da Índia e Guiné on March 22, 1781. Santos was brought to Portugal in the company of his master, Francisco Antônio da Fonseca e Aragão, after Aragão was imprisoned. During Aragão’s imprisonment, Santos petitioned officials at the Casa da Índia, who granted his manumission. Months later, in August, Aragão learned of his slave’s new freedom and petitioned the *Casa da Índia e Guiné* to reverse its decision to free Santos. Aragão argued that Santos had no right to benefit from the 1761 decree given his own imprisonment, for which he also adamantly proclaimed his innocence. In a note at the top of Aragão’s counter-petition, José

³⁸ ANRJ, PON, liv. 153, 42-42v.

³⁹ *Ibid.*, 173v-174.

Joaquim Lobo da Silveira, who was the Provedor da Casa da Índia e Guiné, reversed Santo's manumission and ordered him to be returned to a state of slavery.⁴⁰

There is evidence that slaveowners used the 1776 notice to their advantage in order to bring slaves not explicitly employed as sailors into Portugal. With help from the Nossa Senhora do Rosário dos Homens Pretos, a Black brotherhood in Lisbon, Francisco da Silva Martinho charged that his master frauded port officials by registering him as a sailor. They petitioned the *Juíz da Índia e Mina* to produce a *justificação*, which was a way of proving a set of claims outlined in a petition, and could then be supported by witness testimony or supporting documents. One of the key claims made in their *justificação* stated that Martinho "never was a sailor nor knows anything about this work, and during the entire journey did not do anything that a sailor would." All three witnesses, two of whom were free men of color, upheld the petition's claims. Furthermore, the witnesses all confirmed that the Governor of Pernambuco warned the ship's captain before departing that any slaves not registered as crew would be freed upon disembarking in Portugal.⁴¹ Similarly, when the *Santíssimo Sacramento e Nossa Senhora da Arrábida* arrived in Lisbon in 1780, the ship's captain, Teodósio Gonçalves da Silva, brought with him five slaves, only one of whom had experience working on a ship. Upon arriving in Lisbon, these five slaves learned that the freedom they expected to gain was thwarted by Silva's decision to register them as crew. Their case came before the *Junta do Comércio* and, ultimately, Queen Maria I, who ordered three judicial ministers to deliver a final decision. While I have found no record of the final decision, a letter from the ship's original captain months later expressed that at least two of his slaves involved in the case were manumitted.⁴² However successful, these two examples show the even when some

⁴⁰ AHU-São Tomé, cx. 18, doc. 47.

⁴¹ ANTT, FF, JIM, mç. 6, n. 13, cx. 373.

⁴² AHU-Bahia cx. 180, doc. 13437. A copy of the crown's *decreto* can be found in a collection of records related to the 1761 decree in AHU-Avulsos doc. 2133. Silva's letter is located in AHU-Bahia, cx. 181, doc. 13486.

ship captains evaded the law by registering slaves who were not sailors as crew, the enslaved still found recourse to argue for their freedom.

The majority of slaves in Brazil did not travel to Lisbon, but their experiences and stories surely had a large impact on slave communities. A slave who left their kin and community and returned a freed person must have generated discussions about the meaning of and access to freedom in Portugal. Rumors of abolition in Portugal, supported by the examples of servants who returned free, perhaps helped give meaning to the idea of Portugal as free soil amongst slaves and freed people in Brazil.

Searching for Refuge: Maritime Fugitives from Brazil

One final outcome of the 1761 decree to be discussed here is the evidence of enslaved fugitives to Portugal. The text of the 1761 decree warned that slaves fleeing to Portugal would not gain their manumission under its terms. It specified that it was not the purpose of the decree to encourage “slaves to desert [Portugal’s] overseas colonies.”⁴³ It is unclear exactly how enslaved people travelled across the Atlantic undetected. Perhaps they acted as members of a ship’s crew, or stowed away with the help of other enslaved sailors. Regardless of how they managed their ways onto ships, it was a risky undertaking that further underscores their understanding of Portugal as free soil.

Officials from Brazilian ports exchanged correspondence with imperial officials, pointing out the threats to social order posed by maritime fugitives. Two letters from imperial officials complaining of maritime fugitives suggest the frequency of such incidents. In 1796, Bahia’s governor (and future viceroy of Rio de Janeiro) Fernando José de Portugal wrote to Portugal’s

⁴³ Lara, *Legislação sobre escravos*, 346.

secretary of state in support of a slaveholder seeking the restitution of her slave after he fled to Lisbon. After affirming the supplicant's claim that the slave was a fugitive, Portugal wrote that,

No one understands better than your excellency the grave consequences to the commerce and agriculture of the conquests once slaves are convinced that fleeing for the kingdom, they will gain with such ease, as [this slave] and others did, their freedom, moving them to defy their masters, searching for refuge.

Acknowledging other cases, the governor appealed to both commercial and social interests. The restitution of a slave was not only about ensuring slave labor remained in Brazil, but also about maintaining order, obedience, and discipline amongst slaves in Brazil who sought to flee or trick their masters, or worse, imperial officials and the crown.⁴⁴ In 1804, a Portuguese judge, Tomás Inácio de Moraes Sarmiento, was asked to consult on a petition from a runaway slave from Bahia, Vicente Anastásio Teles, who requested his manumission in Portugal on the grounds that he suffered from a cruel master. The opening lines of the consultation shared that, "It will be ten years since slaves frequently began to flee Brazil for this court, where in fact, they are judged free and deposit their price." Sarmiento took the opportunity to situate the runaway slave's petition within the context of governing slavery in an empire. He argued that "slaves constitute the most important property of colonists in Brazil," but that intervening in conflicts of manumission between slaves and their masters risked impeding a master's dominion. Thus, not only did Sarmiento acknowledge that maritime marronage occurred with some frequency within the previous ten years, but also saw this issue as reflecting a greater challenge facing an empire dependent on slaves who were increasingly making claims to their freedom.⁴⁵

In 1779, Pedro Antônio da Gama e Freitas boarded the *Santíssimo Sacramento e Nossa Senhora do Rosário* en route to Portugal as a defendant in a legal suit. When in Portugal, Freitas

⁴⁴ AHU-Bahia Eduardo de Castro e Almeida, cx. 84, doc. 16501.

⁴⁵ AHU-Bahia, cx. 233, doc. 16095.

approached the Police Intendant accusing two of his slaves from Rio de Janeiro of running away to Lisbon on the *Nossa Senhora de Graça*. Records show that the two ships on which slave and master travelled to Portugal left Rio de Janeiro at the same time.⁴⁶ Did Freitas attempt to bring his slaves into Lisbon with him, only to accuse them of being fugitive slaves to prevent their manumission? Or did his slaves seize an opportunity to flee Rio on a ship guaranteed to go directly to Lisbon, only to find themselves caught in Lisbon? We do not have an exact explanation, but details from the documents seem to disprove that they were brought in their master's company. To be sure, nowhere in the materials relating to the incident is there a reference to a petition by the slaves for their freedom, which was common in almost all correspondence for the restitution of slaves. What is clear is that in Freitas's petition to the Police Intendant, he requested that his slaves be returned immediately to Rio de Janeiro, with no mention of a requirement that he remain in Lisbon or that he travel with them. Instead, he seemed to fear what their physical presence in Lisbon could produce. The case was ultimately brought to the attention of the crown, who ruled that the two slaves should be returned to Rio de Janeiro on the next available ship, ultimately not benefitting from the 1761 decree "for having come as runaways."⁴⁷ That Freitas requested the return of his slaves to Rio de Janeiro so quickly during his own imprisonment in Lisbon suggests he feared they would obtain their freedom in Portugal.

Two more examples from Rio de Janeiro demonstrate that slaves fled that port for Lisbon. The first example is a brief letter from D. Rodrigo de Sousa Coutinho to the viceroy of Rio de Janeiro. Coutinho informed him that,

His Royal Highness sends Luiz dos Santos, slave of Francisco Xavier, in order for your excellency to return him, recommending

⁴⁶ AHU-Rio de Janeiro, cx. 111, doc. 9194.

⁴⁷ Materials relating to this case can be found in the following collections. AHU-Rio de Janeiro, cx. 113, doc. 9322; ANTT, IGP, Liv. 83, 10v, Aviso de Martinho de Melo e Castro; ANTT, IGP, mc. 1, cx. 1, docs. 34 and 35. Case also cited in Lima, 65.

in the royal name of the prince, that he does not punish him for running away to this kingdom, and that in the future he treat him with humanity and gentleness.

While Luís dos Santos did not gain his manumission in Lisbon, he may have made the case to imperial authorities that he suffered from cruelty and punishments from his master. Based on the language of the letter, it seems Santos' case reached the attention of Prince Regent João VI, and that though he did not defer the petition, he nevertheless ordered that Santos be treated with "humanity and gentleness."⁴⁸ A few years later in 1803, an enslaved man named Jerônimo fled Rio de Janeiro, successfully arriving in Lisbon to pursue his letter of manumission. Soon after, his master, Gabriel Garcês e Gralha, through the aid of his attorney in Lisbon, petitioned the Portuguese crown complaining of his slave's action and requesting that his slave be returned. In instances like these, slave owners often not only based their petitions on their own right to their property, but claimed that it was because incidents like these "served as a bad example to other captives, that to obtain their freedom they would use deception and fraud." Gralha concluded by urging the crown to consider his petition, given the many costs he was incurring to return Jerônimo to Rio de Janeiro.⁴⁹

The story of Bernardo Mendes Cardoso from Bahia further illustrates how enslaved people imagined Portugal as a space of protection from their enslavement. Cardoso, described as *pardo* and born in Bahia, fled to Portugal sometime in the mid-1790s seeking his freedom because "in [Brazil] he was unable to because this was against the wishes of his master, and when he tried to free himself through the established channel, he again was unable to because of the close friendship between his master and the magistrates and governor." Arriving in Lisbon, Cardoso petitioned the

⁴⁸ ANRJ, SEB, cód. 67, vol. 24, 230. A copy is also located in AHU-Códice 574, 173-173v. Both are dated September 5, 1799.

⁴⁹ AHU-Rio de Janeiro, cx. 223, doc. 15315.

crown for his freedom with assistance from a local brotherhood. In a royal order, Cardoso gained his freedom but was ordered to pay the price of his manumission. He was evaluated at 57\$600 réis, and after paying this value, which was sent back to Bahia to his now former master, he was freed and granted permission through license to return to Bahia in order to reunite with his family, who remained enslaved.⁵⁰ In travelling to Lisbon, Cardoso sought a certain protection that had run its course in their respective cities. His master was described as a wealthy and powerful individual who could work local legal channels to their own benefit. Castro imagined that escape to Lisbon could provide the ultimate recourse against their masters, who meted out especially severe punishment.

The evidence presented here not only confirms that some enslaved men fled Brazil for Portugal, but suggests that they did so with a particular expectation of what would happen in Portugal. Their decision to flee to Portugal represented a unique blend of strategies that have typically been viewed as either working within or against slavery as an institution: a refusal of one's enslavement through running away, and a pursuit of manumission through existing frameworks established by the 1761 decree. As the 1761 decree spread throughout the Atlantic world in the late eighteenth century, slaves weighed the risks of fleeing, sometimes choosing to try their luck in Portugal to gain their manumission, or to have their case heard by the crown. That slaves accepted the unknown risks of travelling clandestinely across the Atlantic further demonstrates how they understood freedom and justice within the geographies of colony and metropole, Brazil and Lisbon.

⁵⁰ Maria Beatriz Nizza da Silva, *Bahia, a corte da América* (São Paulo: Companhia Editora Nacional, 2010), 431-432; AHU-Bahia Eduardo de Castro e Almeida, cx. 84, doc. 16501; AHU-Bahia Eduardo de Castro e Almeida, cx. 86, doc. 16739.

Allies of Freedom: Lisbon's Black Brotherhoods

Thus far, I have referenced the aid and support provided to slaves by Black brotherhoods in Lisbon, but their participation in the cause of manumission warrants attention here. In nearly every case I consulted, a Black brotherhood in Lisbon was involved or mentioned in some way. After the publication of Pombal's 1761 decree, Lisbon's Black brotherhoods took the initiative to serve as monitors of the city's busy port. They waited along the docks, approaching incoming slaves with information about their potential freedom, and offered their resources to slaves from Brazil who had no formal affiliation with their brotherhood. Slaveowners complained regularly that their slaves were "seduced" by "the advice and suggestions of some freed blacks" to pursue their freedom.⁵¹ Their participation in enforcing Pombal's decree invites us to consider the networks they created in Lisbon and the mechanisms with which they advocated for manumission.

Historians have long viewed brotherhoods as integral institutions in early modern Portugal and its empire. As Mariza Soares writes, they "were at once a locus of the exercise of liberty among black slaves, and a medium of indoctrination for African peoples within Portuguese society."⁵² In brotherhoods, slaves and freed people found community, often formed along racial and ethnic lines, that provided resources to alleviate life in a slave society. They were distinguished by their public displays of devotion, through festivals, the collection of alms, and funeral processions. In Portugal, the first known brotherhood designated for individuals of African descent was started in 1565 when the brotherhood of *Nossa Senhora do Rosário* was partitioned into two groups, one of slaves and freed people, and the other of "honorable people."⁵³ By the time of Pombal's slavery

⁵¹ AHU-Rio de Janeiro, cx. 223, doc. 15315.

⁵² Mariza de Carvalho Soares, *People of Faith: Slavery and African Catholics in Eighteenth-Century Rio de Janeiro* (Durham: Duke University Press, 2011), 148.

⁵³ Lucilene Reginaldo, "'África em Portugal': devoções, irmandades e escravidão no Reino de Portugal, século XVIII," *História* 28 (2009), 289-319.

decrees, Lisbon counted seven brotherhoods dedicated to slaves and freed people of African descent.⁵⁴ Brotherhoods like these were guided by charters, or *compromissos*, which outlined rules and procedures that governed their group.⁵⁵ These *compromissos* designated membership dues, directions for festivals dedicated to particular saints, and rituals for burying deceased members. Brotherhoods were also given privileges to provide support (financial or legal) for an enslaved member's manumission.

As early as the sixteenth century, Black brotherhoods in Lisbon sought and won privileges to intervene in the sale of an enslaved member to Brazil or another part of the Portuguese Empire. In 1772, the Lisbon brotherhood of *Jesus Maria José dos Homens Pretos* petitioned the *Desembargo do Paço* to prevent the sale of a slave to Pará or Maranhão, where they feared his master intended to send him. Their petition referred to a privilege granted to a brotherhood in the sixteenth century which permitted the brotherhood to free “enslaved members whose masters wish to sell them outside this kingdom.” Other brotherhoods petitioned the crown requesting that those same privileges be extended to them.⁵⁶ Such privileges contributed to a tradition, spanning several centuries, of protecting slaves in Portugal from sale to Brazil and other parts of the Portuguese Empire, even before the passage of the 1761 decree.

⁵⁴ Fernanda Aparecida Domingos Pinheiro identifies them as the following: “Irmandade de Nossa Senhora do Rosário dos Pretos, no Convento do Salvador; Irmandade de Nossa Senhora do Rosário a Resgatada, no Convento da Trindade; Irmandade de Nossa Senhora do Rosário dos Pretos, no Convento da Graça; Irmandade de Nossa Senhora de Guadalupe e São Benedito, no Convento de São Francisco; Irmandade de Jesus Maria José, no Convento do Carmo; Irmandade de Jesus Maria José, no Convento de Jesus dos religiosos franciscanos, e; Irmandade de Nossa Senhora do Rosário e dos Santos Reis Magos.” Pinheiro, *Em defesa da liberdade*, 220, note 25. For a discussion of the brotherhoods’ histories in Lisbon from the fifteenth century onwards, see Didier Lahon, *O negro no coração do império: Uma memória a resgatar - séculos xv-xix* (Lisboa: Secretariado Coordenador dos Programas de Educação Multicultural/Ministério da Educação, 1999), 57-70.

⁵⁵ For transcriptions of two *compromissos* from Lisbon, see Isaías da Rosa Pereira, “Dois compromissos de irmandades de homens pretos,” *Arqueologia e história* 4 (1972), 9-47.

⁵⁶ Lucilene Reginaldo, “‘África em Portugal’: devoções, irmandades e escravidão no Reino de Portugal, século XVIII,” *História* 28 (2009), 300-301.

Reading materials that consistently comment on or reference brotherhoods' involvement in freedom cases, it becomes apparent that they developed a strategy and a protocol to free any and all enslaved individuals entering Portugal. In reading through the many notes scattered along the margins of petitions and consultations, one in particular gave me pause. Above, I discussed the example of Antônio Manuel dos Santos, slave of the imprisoned coronel whose manumission was reversed. In the collection of documents comprising the case, one is a request by Santos and members of the Nossa Senhora do Rosário for a transcribed copy of his manumission from the *Casa de Guiné e Índia*. The transcription was written on the back of the petition. But below this is another note. It reads:

[This manumission] is registered on page 17 in the second book of the brotherhood of Our Lady of the Rosary for the letters of manumission of slaves from overseas, and Antonio Manuel dos Santos is registered as free in the said book, and free from slavery under the orders of her majesty.⁵⁷

Officials of Nossa Senhora do Rosário maintained their own counter-archive for the manumission of slaves from overseas colonies who were not even members in their brotherhood. Twenty years after the publication of the 1761 decree, the brotherhood was on its second record book documenting their work in facilitating the manumission of slaves. Although brotherhoods generally kept their own records of internal business, their archiving of manumissions by way of the 1761 decree reveals their understanding of the power of paper in early modern Portugal and its empire. Perhaps having experience with cases where manumissions were overturned, or freed people were re-enslaved, their own records could act as immediate knowledge of a manumission's details: when it happened and from what judge, scribe, or customs official. In at least one documented case, an enslaved woman named Francisca Maria Cândida who arrived in Lisbon in

⁵⁷ AHU-São Tomé, cx. 18, doc. 47.

the 1760s from Rio de Janeiro was freed based on the 1761 decree, but was re-enslaved decades later. The irmandade acted on her behalf and requested a *justificação*, producing witnesses and other paper proof that she was a freed woman.⁵⁸ Whether or not the same brotherhood aided her original manumission decades earlier, it is clear they also worked to protect freed people against the vulnerabilities of being manumitted.

A closer look at one case from 1805 to 1806 involving the manumission of a slave from Rio de Janeiro reveals the strategies employed by brotherhoods and the networks they built to sustain their emancipating endeavors. In June 1805, Manuel Quaresma arrived in Lisbon from Rio with twelve slaves and many members of his family. He was granted a license to remain in Lisbon for one year.⁵⁹ Shortly after arriving, two of his slaves, Francisco and Nicolau, gained their manumission with support from the Nossa Senhora do Rosário dos Homens Pretos brotherhood. From reading the materials related to this case, what is clear is that Quaresma was unaware of his slaves' newly-obtained manumission. Allegedly, throughout the year they "always lived in this court in continued service to [their master] without showing the slightest pretense of freedom... and it was publicly known they would return to Rio de Janeiro with him."⁶⁰ Days before departing for Rio de Janeiro, both Francisco and Nicolau fled Quaresma's residence in Lisbon, "taking with them stolen items, and they hid." For this, Quaresma petitioned authorities for their arrest, but only Francisco was found and imprisoned. At this point, only days before returning for Rio de Janeiro, Quaresma still knew nothing of his slaves' letters of manumission. A representative of the *Nossa Senhora do Rosário* brotherhood intervened upon learning of Francisco's imprisonment, informing a judge that Quaresma intended to transport Francisco back to Rio de Janeiro as a slave.

⁵⁸ Pinheiro, *Em defesa da liberdade*, 191-192.

⁵⁹ AHU-Rio de Janeiro cx. 236, doc. 16132.

⁶⁰ ANTT, Feitos Findos, Fundo Geral, Letra J, mç. 1464, 34v.

Providing a copy of Francisco's manumission from the *Alfândega*, he also requested that Quaresma's attorney respond within twenty-four hours to the allegations. At this point, it was revealed to Quaresma and his attorney, whom he appointed shortly before departing, that Francisco was in fact granted his manumission by port officials.

Francisco's case prompts us to consider why he would conceal his manumission from Quaresma, and how he gained his manumission to begin with, without Quaresma approving or contesting it. On the former issue, we can speculate the reasons why he concealed his manumission while in Lisbon. Francisco likely understood that Quaresma would challenge his manumission directly to imperial officials. This explains why he fled from Quaresma's residence only days before departing for Rio de Janeiro, hoping to avoid his (former) master and avoid returning to Rio de Janeiro. Furthermore, Quaresma's attorney referenced Francisco's "amazia," or lover, who helped him hide from authorities. Finally, Francisco performed as a slave to Quaresma, understanding that in order to protect his freedom, he would have to deceive him into believing that he would return as his slave.

Yet, how did Francisco conceal his manumission? The answer to this question, offered by Quaresma's attorney and port officials, reveals tactics of deception employed by the brotherhood. Finding what he believed to be the answer, Quaresma's attorney produced a declaration by Francisco Pereira do Vale, scribe of Lisbon's customs house, who was originally charged with finding Quaresma to inform him of his slaves' impending manumission after arriving in Lisbon in 1805. Vale claimed that he sought Quaresma's residence, which he was told was located on Rua Direita de Pedrouços. Arriving there, he encountered an individual claiming to be a cousin of Quaresma, who told Vale that Quaresma and his family were at the

Vila das Caldas bathing because of his illness and will not return early, nor does he know when they would return; although being

familiar with the petition, he, as [Manuel Quaresma's cousin] has permission to not contest the petition, and consents to the concession of the letter of freedom that is requested in favor of the supplicant Francisco Quaresma, as recommended by his cousin [Manuel Quaresma].”⁶¹

According to Quaresma's attorney, his client never resided on Rua Direita de Pedrouços, nor did he have a cousin in Lisbon, much less one who attended to business on his behalf. In fact, “no one appeared with those names, occupations, and residences...”⁶² The brotherhood never responded to these allegations by Quaresma's attorney.

The contradictory claims and allegations about Quaresma's residence indicates a complex scheme developed by the brotherhood to free arriving slaves. Apparently, they arranged a residence at which an ally (presumably white) acted as Quaresma's cousin. From the available documents, it is almost certain that Quaresma had no knowledge of Francisco's (and Nicolau's) manumission, and treated them as his slaves during their stay in Lisbon. In April 1806, Quaresma produced a list of family members and *criados* who would return to Rio de Janeiro, listing both Francisco and Nicolau as *criados*, which we have seen was a way of evading Portuguese law.⁶³ Moreover, Quaresma originally ordered the arrest of Francisco and Nicolau because they fled and stole from his residence, referring to them as slaves and making no allegations about an illegitimate free status. It was only after Francisco's imprisonment that Quaresma and his attorney learned of his manumission, which they believed to be a fraud. It would be remarkable if the brotherhood developed a network to deceive port officials in the cases of manumission, but conceivable if we consider their reach within Lisbon's community, and their tradition of emancipating arriving

⁶¹ Ibid., 19-19v.

⁶² Ibid., 17v.

⁶³ AHU-Rio de Janeiro cx. 236, doc. 16132.

slaves. What is certainly clear is that they found methods of coordination that protected slaves, and perhaps even secured their manumission.

A conflict between an enslaved woman from Brazil and one brotherhood reveals more coordination to protect slaves, but sometimes against their knowledge or will. On October 18, 1794, after eighty-two days at sea, Teresa, an enslaved woman from Angola, arrived in Lisbon with Bernardo Jacinto Gomes and his family. Gomes' travel license was valid for three years, and amongst the various reasons for his travel, he sought medical treatment after being ill. The details surrounding what followed are vague, but what is clear is that Gomes agreed to manumit Teresa so long as she "obliges and promises not to bring another civil or criminal case against Bernardo Jacinto, nor accuse him, or petition anything against him..."⁶⁴ The language of this stipulation suggests that Teresa may have formally or informally challenged Gomes to comply with the 1761 decree. Gomes may have originally tried to evade the decree, because when he arrived in Lisbon two years earlier, Teresa was listed on the ship's register as "black, free, 30 years old in the service of [Gomes' daughters]."⁶⁵ Gomes admitted as much when he told officials that he did not report Teresa as a slave to Lisbon's customs house.⁶⁶ Teresa accepted the terms of manumission, a scribe notarized the agreement, and it was assumed that she would return to São Paulo with Gomes.

Before returning to São Paulo, two petitions in Teresa's name appeared to the crown, stating that Gomes intended to return her as a slave to Brazil. The first petition, addressed from "Thereza, black woman, sister of the Irmandade de Jesus, Maria, José dos Homens Pretos," acknowledged that Teresa gained her freedom, but claimed that by asking for license to return to Brazil, Gomes violated her freedom. Attached to the petition was a copy of the manumission

⁶⁴ AHU-São Paulo, cx. 42, doc. 3466, Termo que assina Bernardo Jacinto Gomes, e Thereza, Mulher preta.

⁶⁵ AHU- São Paulo, cx. 41, doc. 3382. Ofício de António Tomás da Silva Leitão dando notícia de que por order de D. Maria I fez a visita do ouro ao Navio Invencível de que é capitão, António José Rodrigues.

⁶⁶ Ibid., Termo que assina Bernardo Jacinto Gomes, e Thereza, Mulher preta.

agreement between Gomes and Teresa. A second petition in her name made more direct demands, requesting that Gomes "...restore the supplicant's freedom, along with her clothes and three year's wages." This second petition provided copies of Gomes' travel license with reference to Teresa to prove she was being taken to Brazil.

Given the evasions of Portuguese law by Brazilian slaveowners and the ever-present threat of re-enslavement between Portugal and Brazil, it is tempting to accept the petition's claims. Lisbon's Black brotherhoods not only supported freedom cases, they also sought to protect slaves against re-enslavement and sale away from Portugal to Brazil.⁶⁷ In this case, however, Teresa admitted to knowing nothing of the petitions made in her name, not having any affiliation with the brotherhood, and, in fact, desiring to return to Brazil with her former master's family. Teresa even signed a declaration disputing the two aforementioned petitions written on her behalf. She insisted that she had no family in Portugal, and intended to return as a freed *criada* to Gomes' daughters.

Teresa's situation complicates our understanding of the brotherhoods, who may have out of principle argued for slaves' freedom, but maybe did not fully comprehend the dynamics of dependence or bonds that shaped relations under slavery in Brazil. If Teresa did not return to Brazil, she would have been removed from her kin and community in São Paulo. What is more, without financial resources or community, she would have struggled to adapt to life in the Portuguese metropole. (Perhaps the brotherhood preempted this concern by requesting three years' salaries and her wardrobe.) Of course, this is not to say that Teresa accepted her enslavement or dependence, but rather that she made choices within the limits of her own agency, perhaps forming her own strategy to exist as a *criada* to her former masters. Somehow, the brotherhood learned of her imminent return, and if we are to believe her declaration, made claims on her behalf. Whether

⁶⁷ Pinheiro, "Em defesa da liberdade"; Lahon, "Eles vão, eles vem," 84; Venancio, *Cativos do Reino*, 146.

she related news of her departure to São Paulo to members or they learned of it in another manner, they almost systematically returned to arguments of re-enslavement in order to intervene on her behalf. They knew which documents to produce, how to get them, and which petitions to attach them to in order to gain the attention of imperial officials, and ultimately the crown, who forwarded the materials to Lisbon's police intendant for consultation. The Police Intendant found Teresa's manumission to be valid, her declaration to be sound, and reported to the crown that he recommended permitting her to return to São Paulo.⁶⁸

Francisco and Teresa's stories cast the brotherhoods in a more complex and complicated light. The veracity of allegations, claims, and deceptions aside, they formed distinct methods to systematically produce petitions and initiate freedom cases, and also worked to protect slaves against re-enslavement if they were manumitted. They understood the social, legal, and bureaucratic landscape, and provided financial resources to pay attorneys and scribes. Their activism on behalf of slaves provided local knowledge of officials, loopholes, and courts in order to materialize challenges to slavery in concrete and individual cases. As enslaved people from Brazil came to develop an imagination about Portugal in relation to their own slavery, Black brotherhoods in Lisbon too likely developed assumptions about the nature of slavery in Brazil.

Conclusion

Following the passage of the 1761 decree, enslaved people brought legal struggles for freedom directly into the heart of the empire. Pombal never intended to pass legislation that would inspire enslaved people to seek their legal freedom in Portugal. Yet enslaved people, through their petitions and suits, imbued the 1761 decree with new meanings that resonated throughout the

⁶⁸ ANTT, IGP, liv. 5, 97v-99v, a copy of which is also located in AHU-São Paulo, AHU-São Paulo, cx. 42, doc. 3466.

Atlantic world—including with those who, if for only a moment, sang about their emancipation in 1808. If the decree had originally intended to legitimize slavery in Brazil by eradicating it from Portugal, enslaved people living within the empire inverted the decree, framing it as a legitimation of their limited rights to legal freedom under Portuguese law. That imperial authorities shared correspondence complaining of Lisbon-bound fugitives and constantly revised the parameters of their own legislation underscores the accumulated power that enslaved claimants generated for themselves and each other by invoking the free-soil law in Portugal. Appeals from the enslaved were not always successful, but they shaped the law, as well as its application, in consequential ways.

As enslaved petitioners appealed in Lisbon, they depended, in large part, on assistance from Black brotherhoods. Representatives from these brotherhoods eagerly awaited the arrival of new slaves, provided paper for petitions, and offered protection against incensed slave owners. These brotherhoods and their members were intermediaries between slaves and the wider legal system of the court. They knew which officials to petition, they anticipated the responses of slave owners, and they kept their own diligent records of manumission, cognizant that paper proof might be needed in a moment's notice. The case of Nicolau and Francisco highlights the extent to which they organized in the city to deceive colonial officials and slave owners. Indeed, they were so committed to the enforcement the 1761 decree, that they evidently petitioned on behalf of others, without even asking, under the assumption that arriving slaves would just simply want their freedom. Foregrounding the advocacy of brotherhoods and their roles as intermediaries helps us better understand how they facilitated claims-making on an Atlantic scale. It also casts their roles as institutions in a new light. Claimants in Portugal did not need to be dues-paying members to benefit from the brotherhoods' representatives. Thus, these brotherhoods presented themselves as

one of the earliest organized groups to promote the systematic conferral of legal freedom among slaves.

A deeper theme also runs through this chapter. One of the larger consequences of the 1761 decree was to deepen enslaved peoples' awareness of royal power. Even by just learning of the decree through word of mouth in Brazil, enslaved and freed people perceived the political geographies of royal power in the Portuguese Empire. Pombal certainly devised the 1761 decree, but it could only be enforced if it was affirmed by the monarch. That slaves understood this is clear in the song they sang that opened this chapter; the song's lyrics directly linked the crown with legal freedom. As enslaved people interpreted and then transformed the meanings of free soil in the Portuguese Atlantic, they also continually re-articulated a relationship between themselves and the sovereign. The next chapter takes a deeper look at that. If this chapter was about the interpretation of a specific law by slaves, the next focuses on the ways they contributed to the shaping and making of law.

CHAPTER 3

Afflicted Slaves, Faithful Vassals: Enslaved Petitioners and the Making of Slave Law from

Below

“...because even though he is a slave, he is a vassal of Your Majesty...”
-Petition of Joaquim José dos Prazeres to Queen Maria I, ca. 1799

Throughout the eighteenth century, a relatively small but nevertheless impactful number of enslaved peoples from Brazil generated petitions to Portuguese monarchs. In these appeals, which varied in length, tone, and urgency, enslaved peoples became petitioners, articulating distinct positions for themselves alternately as insiders of the Portuguese Empire, subjects, “miserable captives,” Christians, and vassals of the Portuguese Crown. Nearly all of the extant petitions from enslaved peoples to Portuguese monarchs addressed self-purchase, a form of manumission whose codification in law caused some confusion and disagreement amongst colonial officials, travelers, and some twentieth-century historians. For instance, a British captain travelling through Rio de Janeiro observed in 1802, “The law obliges a master to give freedom to his slave, if the latter can procure the sum...”¹ In that same year, however, the viceroy of Rio de Janeiro wrote to Prince Regent João VI discrediting an enslaved African petitioner who “falsely believes there is a law that obliges slave owners to give their slaves freedom.”² While no explicit and encompassing law sanctioning self-purchase could be found within the different corpuses of law that governed the Portuguese Empire and then Brazil before 1871, for enslaved petitioners in Brazil the matter turned less on a codified law that could be cited and rather on a customary law shaped by perceived rights, obligations, and precedents, borne of a distinctly different

¹ James Kingston Tuckey, *An Account of a Voyage to Establish a Colony at Port Phillip in Bass's Strait, on the South Coast of New South Wales* (London: Longman, Hurst, Rees, and Orme, 1805), 99. Tuckey's account circulated within English-speaking magazines for at least the next four decades.

² ANRJ, SEB, cód. 69, vol. 11. The matter which the viceroy discussed is detailed in further depth below.

interpretation of the law than what viceroys, governors, and judges offered. In this way, enslaved petitioners from all corners of Brazil, having never met but making remarkably similar claims to their freedom, fashioned a vision of slave law that shaped Brazil and Portugal in ways that remain underexplored.

Royal appeals represented one arena within which enslaved and freed peoples in Brazil expressed their own interpretations of the law. In local courts and before judges, people of African descent pursued the “meios-ordinários,” or the established channels, to challenge slave owners or to argue on behalf of or to protect their freedom.³ Petitions directed to Portuguese monarchs, on the other hand, as a “meio-extraordinário,” or exceptional channel, allowed inhabitants of Portugal and its overseas territories to supplicate for individual “acts of grace.” Indeed, some of the enslaved petitioners discussed here described ongoing or stalled litigation in their petitions, but nevertheless pursued royal grace out of frustration with the limits of local courts. Historian A.J.R. Russell-Wood first called attention to petitioners of African descent who sought royal mercy from the crown, in turn revealing their participation in a broader culture of appeals- and claims-making outside of the courts.⁴ This chapter presses Russell-Wood’s conclusions one step further: what was the broader cumulative impact of appeals from enslaved petitioners throughout the eighteenth century? In addressing this question, I show that enslaved petitioners not only participated in the culture of petitioning, but that their claims shaped discussions of the law, rights, and the boundaries

³ For two much-needed accounts of legal suits (*ações de liberdade*) initiated by people of African descent during the eighteenth century, see Fernanda Aparecida Domingos Pinheiro, “Em defesa da liberdade: libertos e livres de cor os tribunais do Antigo Regime português (Mariana e Lisboa, 1720-1819),” (PhD Diss., Universidade Estadual de Campinas, 2013), and Kátia Lorena Novais Almeida, “A vulnerabilidade da alforria e o recurso à justiça na Bahia setecentista,” *Afro-Ásia* 51 (2015), 73-117.

⁴ A.J.R. Russell-Wood, “‘Acts of Grace’: Portuguese Monarchs and their Subjects of African Descent in Eighteenth-Century Brazil,” *Journal of Latin American Studies* 32, no. 2 (2000), 307-332. Also see Priscila de Lima, “De libertos a habilitados: interpretações dos alvarás anti-escravistas na América portuguesa (1761-1810),” (PhD Diss., Universidade Federal do Paraná, 2011).

of slave owners' mastery in ways that left traceable impacts on conceptions of slave law during the late-colonial period.

Until 1871, when the *Lei do Rio Branco* established the right of enslaved people to indemnify their slave owners in exchange for their freedom, self-purchase existed in the realm of custom. Throughout the eighteenth and nineteenth centuries, some religious figures, judicial authorities, and lawyers offered proposals to regulate manumission without impeding on slave owners' property rights, their so-called "direito de propriedade."⁵ One influential explanation for why these proposals never came to fruition in Brazil focuses on the role of the state in protecting property rights. In the influential article "Silences of the Law," Manuela Carneiro da Cunha argues the Brazilian state opted for a "tacit division of the labour of controlling the 'dangerous classes'" between slave owners' paternalistic governance over slaves, and the state over the dependent free population. With manumission preserved under the private control of slave owners, written codes were not only silent on manumission, they were intentionally silenced.⁶ Scholars such as Keila Grinberg, Hebe Mattos, and Sidney Chalhoub have criticized Cunha's argument in light of their own findings regarding slaves' actions in the courts.⁷ The notion that the law could function to protect slave owners through silence is powerful; however, framing the matter as one of state

⁵ For examples of these proposals, see Keila Grinberg, *O fiador dos brasileiros: Cidadania, escravidão e direito civil no tempo de Antonio Pereira Rebouças* (Rio de Janeiro: Civilização Brasileira, 2002), 119-124; Manuel Ribeiro Rocha, *Etiópe Resgatado, Empenhado, Sustentado, Corrigido, Instruído, e Libertado* (São Paulo: Editora Unesp, 2017); Luís Antônio de Oliveira Mendes, "Discurso acadêmico ao programa," in Antônio Carreira, *As companhias Pombalinas de Grão-Pará e Maranhão e Pernambuco e Paraíba* (Lisboa: Editorial Presença, 1983), 364-420.

⁶ Manuela Carneiro da Cunha, "Silences of the Law: Customary Law and Positive Law on the Manumission of Slaves in 19th Century Brazil," *History and Anthropology* 1, no. 2 (1985): 427-443. The peculiar silence of laws on manumission, in Cunha's view, resolved a nagging tension between a purportedly liberal nation organized around and dependent on slavery. In this arrangement, self-purchase needed to remain in the realm of custom.

⁷ Keila Grinberg, *Liberata: a lei da ambiguidade – as ações de liberdade da corte de apelação do Rio de Janeiro no século XIX* (Rio de Janeiro: Centro Edelstein de Pesquisas sociais, 2008); Hebe Mattos, *Das cores do silêncio: os significados da liberdade no sudeste escravista – Brasil, século XIX* (Campinas: Editora da Unicamp, 2013); Sidney Chalhoub, *Visões da liberdade: uma história das últimas décadas da escravidão na corte* (São Paulo: Companhia das Letras: São Paulo, 1999). For them, the strict distinction between customary and positive law became blurred when the arguments of slaves and masters clashed in the courts.

intervention belies the possibility that for some slaves, the legal foundations for rights were anything but silent.

A now-established and significant body of work on the African diaspora in colonial Latin America examines how slaves and freed peoples engaged and shaped legal, religious, and royal institutions equipped with their legal consciousness.⁸ As many historians now recognize, slaves were keenly aware that “Slavery was a relationship mediated by the king’s authority and power.”⁹ By explicitly and strategically assuming identities and subject positions that stressed this dynamic, slaves denounced abusive slave owners and challenged for the recognition of limited freedoms and rights. These studies provide new ways for conceiving of resistance, for tracing how slaves politicized freedom within an array of different colonial and imperial settings, and for viewing slaves as active participants in pressing for and cementing customary rights.¹⁰ This chapter joins the conversation between these scholars, first by incorporating the claims of Africans and their descendants in Brazil’s long eighteenth century (1688-1808) into this literature, and second by examining how slaves expressed their legal consciousness outside of the courts and in direct petitions to Portuguese monarchs. What is particularly remarkable about these royal petitions is

⁸ Herman Bennett, *Africans in Colonial Mexico: Absolutism, Christianity, and Afro-Creole Consciousness, 1570-1640* (Bloomington: Indiana University Press, 2003), 2.

⁹ Marcela Echeverri, *Indian and Slave Royalists in the Age of Revolution: Reform, Revolution, and Royalism in the Northern Andes, 1780-1825* (New York: Cambridge University Press, 2016), 120. See also the discussion in Hebe Mattos, *Das cores do silêncio*, 196-197.

¹⁰ The following is by no means an exhaustive list. María Elena Díaz, *The Virgin, the King, and the Royal Slaves of El Cobre: Negotiating Freedom in Colonial Cuba, 1670-1780* (Stanford: Stanford University Press, 2000); Bennett, *Africans in Colonial Mexico*; Renée Soulodre La-France, “Los esclavos de su Magestad’: Slave Protest and Politics in Late Colonial New Granada,” in *Slaves, Subjects, and Subversives: Blacks in Colonial Latin America*, edited by Jane G. Landers and Barry M. Robinson (Albuquerque: University of New Mexico Press, 2006); Alejandro de la Fuente, “Slaves and the Creation of Legal Rights in Cuba: Coartación and Papel,” *Hispanic American Historical Review* 87 no. 4 (2007): 559-692; Jane Landers, *Atlantic Creoles in the Age of Revolution* (Cambridge: Harvard University Press, 2010); Rachel Sarah O’Toole, *Bound Lives: Africans, Indians, and the Making of Race in Colonial Peru* (Pittsburgh: The University of Pittsburgh Press, 2012); Sherwin K. Bryant, *Rivers of Gold, Lives of Bondage: Governing Through Slavery in Colonial Quito* (Chapel Hill: The University of North Carolina, 2014); Michelle A. McKinley, *Fractional Freedoms: Slavery and Intimacy and Legal Mobilization in Colonial Lima, 1600-1700* (New York: Cambridge University Press, 2016).

that, in many instances, we can trace how individual “acts of grace” generated debates, disagreements, and sometimes laws in both Brazil and Portugal. In a number of identifiable cases, reforms and royal decrees emerged from the collective chorus of claims from Brazil, transforming individual arguments into royal decrees that recognized and affirmed rights.¹¹

Acts of Petitioning

In Portugal’s overseas empire, where subjects living in distant and racially diverse territories had limited access to the institutions of grace and pardon performed in the physical presence of the sovereign, petitions were a key method of establishing a political relationship between vassal and sovereign. Petitioners from the empire made complaints, requests, pleas, and accusations in carefully worded petitions that crisscrossed the Atlantic Ocean and arrived in the offices of the Overseas Council (*Conselho Ultramarino*). The “fiction that all petitions were read by the King during the assembly of the three estates,” in the words of Pedro Cardim, was shared both within the metropole and beyond, amongst both non-elite and elite people.¹² A monarch’s power resided in their capacity to punish and forgive, to rule firmly but to show mercy. As António Manuel Hespanha describes, “The same hand that threatened with merciless punishment dispensed, at the right moment, grace. Through this dialectic of terror and clemency, the king was at once the lord of justice and the mediator of grace.”¹³ Thus, acts of grace were central to the

¹¹ Adrian Masters, “A Thousand Invisible Architects: Vassals, the Petition and Response System, and the Creation of Spanish Imperial Caste Legislation,” *Hispanic American Historical Review* 98, no. 3 (2018), 377-406.

¹² Pedro Cardim, “O quadro constitucional,” in *Historia de Portugal: O Antigo Regime* vol. 4 (Lisbon: Estampa, 1992), 148-149. The extent to which a customary right to petition the crown from afar existed was made clear by the Overseas Council in 1645 upon learning that Bahia’s governor had prohibited individuals from writing to the crown. Councilors warned that such an action would also prevent any “common vassal” from writing to the crown. In preserving this right, they added, the king could receive “news of the good or bad behavior of [their] vassals and officials,” underscoring the administrative and governing function of these appeals. Adriana Romeiro, *Corrupção e poder no Brasil: uma história, séculos XVI a XVIII* (Belo Horizonte: Grupo Autêntica, 2017), 215.

¹³ António Manuel Hespanha, “A punição e a graça,” in *História de Portugal* (4), ed. José Mattoso (Lisboa: Editorial Estampa, 1992), 248;

ideological construction and representation of the monarch as both the dispenser of justice and the benevolent patriarch of vassals, capable of exhibiting both retributive fury and magnanimity. Wielded by the Portuguese monarchs, grace was that which, in theory, could provide a measure of equilibrium to extra-judicial matters that the judicial system, as the foundation of a well-ordered society, failed to resolve.¹⁴

I approach petitions as generated, rather than authored or written, by slaves. Slaves did not write the petitions themselves, but their imprint on their production transcended the words that made it up. Enslaved petitioners, like other non-elite actors in colonial society, depended on the ability and skill of literate actors to translate individual experiences into language legible to judges, administrators, and the crown.¹⁵ The problem of voice inevitably complicates any analysis of slaves' claims-making because the intervention of a third party (the individual who wrote the petition, produced court documents, etc.) added yet another layer of subjectivity to petitions. If we consider, for example, formal rules of etiquette surrounding supplication and informal writing practices of any era, one can begin to conceive of the extent to which slaves' experiences were filtered. For some historians of the colonial period, these multiple layers of translation and intervention caution against attributing "too much pure 'voice' or legal savvy to petitioners."¹⁶ While the flowery language that opened and closed petitions perhaps belonged to the scribe's pen, we cannot attribute their claims strictly to the savvy of the individual who penned them. As Sandra

¹⁴ Schultz, *Tropical Versailles*, 152-176; António Manuel Hespanha, "A mobilidade social na sociedade de Antigo Regime," *Tempo* 11, no. 21 (2006), 138-143; Alejandro Cañeque, "The Emotions of Power: Love, Anger, and Fear, or How to Rule the Spanish Empire," in *Emotions and Daily Life in Colonial Mexico*, eds. Javier Villa-Flores and Sonya Lipsett-Rivera (Albuquerque: University of New Mexico Press, 2014).

¹⁵ Camillia Cowling employs the notion of petitions as translations of claims. *Conceiving Freedom: Women of Color, Gender, and the Abolition of Slavery in Havana and Rio de Janeiro* (Chapel Hill: The University of North Carolina Press), 65-67.

¹⁶ Kathryn Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham: Duke University Press, 2010), 133-134; Russell-Wood, "Acts of Grace," 311. My reading of these petitions is sensitive to these cautions, but it also careful to not see these petitions as so mediated by a third party that they cannot have anything to tell us about slaves' views on manumission or the law.

Lauderdale Graham reminds us, illiterate slaves in Brazilian society found ways to use “practical writing to make themselves heard.”¹⁷ Understanding the legal “voices” of slaves, therefore, must necessarily consider how their actions evolved into the words found in their petitions.

We can fully appreciate these petitions by understanding the challenges that enslaved petitioners faced in directing their claims across the Atlantic Ocean. One eighteenth-century official observed that slaves “did not have enough to even buy a sheet of paper” with which to petition, making it difficult to even initiate the petitioning process.¹⁸ Unfortunately, there is inconsistent information about how these petitions were produced, who wrote them, or how they travelled to Lisbon. Petitions generated by enslaved people lacked dates, signatures, and identifying information about who composed the text.¹⁹ Intermediaries who wrote on behalf of slaves needed proper training and handwriting, and importantly, knowledge of the rules and etiquette of supplication. These intermediaries were typically literate representatives known as *procuradores*.²⁰ The challenge of initiating petitions began with enlisting a procurador who would agree to write on behalf of a slave, and what is more, in favor of their freedom. In a petition to Pernambuco’s governor in 1790, an enslaved woman named Isabel Caetana described the difficulties of locating a procurador who could argue on her behalf to free her from enslavement and concubinage. As her petition explained to the governor, “There is no one who wants to act as

¹⁷ Sandra Lauderdale Graham, “Writing from the Margins: Brazilian Slaves and Written Culture,” *Comparative Studies in Society and History* 40, no. 3 (2007), 611-636.

¹⁸ *Documentos Históricos: Consultas do Conselho Ultramarino, Rio de Janeiro, 1687-1710*, vol. 93 (Rio de Janeiro: Biblioteca Nacional, 1951), 267.

¹⁹ This was despite the fact that, according to a series of cartas régias, “petitions addressed to the throne should be signed with the full name of the person or persons appealing, or the names of their representatives.” Joaquim José Caetano Pereira e Sousa, *Esboço de hum dicionario juridico, theoretico, e practico...Tomo Segundo* (Lisboa: Na Typographia Rollandiana, 1827), not paginated, but listed alphabetically under “petição.” Administrators left dated notes and opinions in the margins of petitions that allow us to confidently date the petition within one year of its production.

²⁰ Antonio de Moraes Silva, *Diccionario da Lingua Portugueza Composto pelo Padre Rafael Bluteau, Reformado e Acrescentado por Antonio de Moraes Silva* (Lisboa: A Officina de Simão Thaddeo Ferreira, 1789), 248; Sousa, *Esboço de hum dicionario juridico*.

procurador...in order to petition for her freedom in the form of the law because all are afraid of the threats from her master.”²¹ The fear of retribution or marginalization for writing on behalf of slaves surely prevented some individuals from acting as a procurador to write the petitions. Some officials even questioned whether or not slaves could legally enlist a procurador in the first place. When an enslaved family from the hinterlands of Rio de Janeiro attempted to notarize an arrangement with a procurador in 1794, a local notary hesitated to draw up their agreement because “all of these blacks are slaves.”²²

Distance and time posed another challenge. Even when slaves could gather the resources and find the intermediaries needed to petition the crown, ensuring those petitions arrived in Lisbon was not an easy feat. If local authorities or slave owners did not intervene to stop it from reaching Lisbon, a petition might still find itself lost or backlogged in the chambers of the Overseas Council. Again, the archive is opaque on how petitions travelled from Brazil to Portugal.²³ In a few documented cases, slaves travelled to Lisbon to petition the Portuguese crown, but they did so as fugitives who clandestinely fled Brazil or as sailors, believing their arrival in Portugal would grant them freedom.²⁴ Enslaved petitioners in Brazil likely relied upon a network of willing officials and travelers, perhaps arranged with the help of their procurador. In the mid-1770s, for example, Rita de Sousa Lobo, a freed African woman in Minas Gerais, petitioned Queen Maria I for the freedom of her five children. According to Lobo, the petition “went to the court in the hands of *Sargento Mór* Francisco Sanches Brandão, who returned to [Minas Gerais] with a decision from the

²¹ AHU-Pernambuco cx. 178, doc. 12456.

²² ANRJ, Relação do Rio de Janeiro, maço 85, n. 5801, note between 8-9.

²³ In rare cases, some freed persons delivered their petitions in person, as was the case for Cypriano Borges de Santa Ana Barros, who had “the good fortune to kiss the hand of His Royal Highness” in Portugal’s court. Russell-Wood, “Acts of Grace,” 307-308.

²⁴ For examples, see AHU-Bahia cx. 219, doc. 15330; AHU-Bahia Eduardo de Castro e Almeida cx. 98, doc. 19190; ANRJ, SEB, cód. 67, vol. 24, 230. A copy is also located in AHU-cod. 574, 173-173v. Both are dated September 5, 1799.

Sovereign.”²⁵ While she was no longer a slave but a freed woman, Lobo convinced a person of relatively high local standing to deliver the petition, and they returned with a favorable response.²⁶ Petitions that successfully reached the ear of the crown resulted from the efforts of slaves to mobilize the necessary resources to allow their claims to reach Lisbon from Brazil.

Once petitions arrived in Lisbon, they set into motion procedures to evaluate individual appeals. The petitions first trickled through the offices of the Overseas Council, where they were read, assessed, and forwarded to one or many of the crown’s councilors.²⁷ Comments and opinions written in the margins of petitions left individual imprints from Lisbon’s authorities who scribbled their immediate reactions, dated it, and then passed the petition along to another authority for review. Eventually, the crown was presented with the petition, accompanied by different, sometimes divergent, opinions and recommendations on how to attend to the petitioners’ request. When opinions seemed divided or if individual claims necessitated further consideration, the crown sent back the petition to the Overseas Council, where members of that tribunal drafted a *consulta*. These sometimes-lengthy reflections on and examinations of the petitions began by summarizing the opinions of crown councilors, taken from the scribbled marginalia, before moving on to the council’s recommendation. The *consultas* were then presented to the crown, who offered their decision (*resolução*) on the matter. The crown’s decision was conveyed back to individual Brazilian governors via the Overseas Council or the Secretary of State.²⁸

²⁵ Arquivo Público Mineiro, SG (documentos não encadernados), cx. 008, doc. 14, 1775/07/24.

²⁶ Erik Lars Myrup shows that petitions could be delivered personally or through intermediaries until they arrived in to the Overseas Council. “Kings, Colonies, and Councilors: Brazil and the Making of Portugal’s Overseas Council, 1642-1833,” *The Americas* 67, no. 2 (2010), 185, 188, and 214 note 76.

²⁷ After 1731, the names of petitioners were recorded in ledgers with a note stating the official to whom the petition was forwarded. However, because they rarely recorded information beyond one’s name, the ledgers are not reliable or consistent indices of status or color. The ledgers are located in AHU-Códices under the series “Livros de Porta.”

²⁸ The lengthy screening process of individual petitions recalls the view of Arlette Farge and Michel Foucault in their analysis of appeals to the French monarch that “It was always the king whose intervention was solicited and his administration that looked twice before intervening.” *Disorderly Families: Infamous Letters from the Bastille Archives* (Minneapolis: University of Minnesota Press, 2016), 252.

Portuguese monarchs always relied on a cadre of royal councilors, as well as the Overseas Council, to provide guidance on legal, political, and economic matters. But from their positions in Lisbon, high-ranking authorities could not verify the veracity of individual allegations contained within any one petition. By the end of the eighteenth century, it became more common for monarchs to instruct Brazilian authorities to investigate the claims of slaves and other supplicants. Whether this was done to protect against abuses of royal power or if it was the preference of individual monarchs, there emerged a division of labor between officials in Brazil and Portugal in responding to enslaved petitioners. In Lisbon, the crown and its councilors evaluated the underlying arguments of individual petitions. In Brazil, officials investigated individual claims and met with slave owners accused of cruelties or abuses. They often discredited enslaved petitioners, perhaps hoping that exposing mendacity would discourage the crown from hearing more appeals from slaves. Some administrators probably resented that the crown, with no first-hand experience of the day-to-day realities of Brazilian slave society, ruled favorably on petitions that impeded on the dominion of slave owners and undermined the authority of local officials.

Creating Precedents: The Case of Marcelina Dias Silvestre

The example of Marcelina Dias Silvestre, an enslaved woman in Bahia at the turn of the eighteenth century, casts light on the ways that slaves transformed appeals to the crown into precedents and rights for future petitioners. In the final years of the seventeenth century, Silvestre brought her master, Anna Maria de Sousa, to court. The details surrounding her original suit are unclear, but from correspondence between Bahia and Lisbon we can surmise that Silvestre appealed for her freedom based on abuse and excessive cruelty (*sevícias*) from Sousa. Silvestre's legal action received unfavorable decisions in both the *Relação da Bahia* (Brazil's high appeals

court) and the *Casa da Suplicação* (Portugal's high appeals court), and she was ordered to return to serve Sousa after being held in protective custody. Silvestre turned to another strategy. In 1700, she directly petitioned King Pedro II, describing her situation and requesting royal intervention in spite of the courts' decision. Her petition to the crown had a clear objective: to receive an act of grace obligating her master to free her in exchange for payment. Pedro II responded favorably on March 8, 1701, ordering Bahian officials to set a price on Silvestre and compelling Sousa to accept the payment.

Pedro II's decision to free Marcelina prompted immediate concern amongst officials in Bahia that such an act would lead all slaves to believe that "to be free, they only have to sue their masters." When João de Lancastre, the governor of Brazil between 1694 and 1702, chose to disobey the crown's order, he probably had the now extinguished fugitive slave community of Palmares fresh in his mind. Defending his decision to act against royal orders to his predecessor, Rodrigo de Sousa, Lancastre cited the grave consequences to social order and stability in Brazil if news of the royal order spread amongst slaves and slave owners alike. In a letter to Pedro II dated September 20, 1702, Sousa, now the governor of Bahia, conveyed that he shared his predecessor's unease and decided to suspend the royal order to avoid opening "such a dangerous door, giving freedom to those very individuals whom Your Majesty's justices find no basis for giving."²⁹

Bahia's governors viewed Marcelina's petition as a threat because it embodied slaves' legal agency in the midst of a larger discussion over rights and protections at the turn of the eighteenth century. During the reign of Pedro II (1683-1706), emergent concerns over the governance of African slaves within a Christian and absolutist empire resulted in an array of opinions and

²⁹ "Sobre os inconvenientes que podem resultar de se dar liberdade a Marcellina Dias Silvestre," in *Documentos Históricos: Provisões, Patentes, Alvarás, Cartas*, vol. XXIV (Rio de Janeiro: Typ. Arch. de Hist. Brasileira, 1936), 217-219.

proposals on the appropriate Christian treatment of slaves and the mutual obligations between slaves and masters.³⁰ In their explanations for why discussions surrounding rights and protections emerged during this period, historians have largely overlooked the actions of enslaved people like Marcelina, focusing instead on religious figures, imperial administrators, and the Portuguese crown. In this regard, the matter has been viewed in terms of state intervention or interference in the private governance of slaves, with rights and protections, whether in codified law or published tracts on Christian slave ownership, as a by-product. Marcelina's petition that alleged *sevícias* and advocated for self-purchase at the very least indicates that slaves were attuned to discussions over the governance of slaves. More accurately, it shows how enslaved petitioners shaped the terms in which the discussion was held to the detriment of colonial officials wary of a free black population.

Allegations of *sevícias* before the crown emerged with great frequency following laws passed under Pedro II. In March 1688, Pedro II authorized two *cartas régias* that offered slaves protections from mistreatment and cruel punishment. The first decree, published on March 20, established the right of slaves to denounce their masters before a judicial authority, and if their allegations were verified, those slave holders were "required to sell them to individuals who treat them well." Most importantly, this decree limited the power of slave owners by defining the boundaries of appropriate punishment and treatment, in turn providing slaves a new platform to be heard without the presence of their masters. News of this decree amongst the king's councilors must have stirred controversy. Three days later, Pedro II drafted a new decree again concerning the appropriate punishment of slaves, but omitted the right of slaves to denounce their masters, placing the onus on local officials to investigate the treatment of slaves and prescribe solutions on

³⁰ Jorge Benci, *Economia Cristã dos Senhores no Governo dos Escravos* (São Paulo: Editorial Grijalbo Ltda, 1977); André João Antonil, *Brazil at the Dawn of the Eighteenth Century* (Amherst: University of Massachusetts Press, 2012).

individual cases as they saw fit. This new decree demonstrated some immediate awareness and perhaps regret of the possible implications of the March 20 decree. Imperial officials now also feared that slaves might learn of these decrees and act on them to the detriment of colonial order. Pedro II asked Brazilian governors to “prevent, as much as possible, slaves from learning of this remedy for their excessive punishment in order to keep them from arguing with their masters over less justified causes.” Purposely or inadvertently, both the March 20 and March 23 decrees were sent to all of Brazil’s governors, despite offering divergent instructions on the same issue.³¹

Within eleven months, Pedro II and his administrators revoked the March 20 and 23 cartas régias, citing a letter from Bahia’s governor who related “inconveniences” that resulted from the original orders.³² Inconveniences, according to a new carta régia in 1689, appears to have been a shorthand for what the letter described as “disturbances between slaves and their masters that have already begun with news of the orders we passed.” In this new carta régia annulling those from the former year, Pedro II instructed authorities in Brazil to “observe what the common laws provide regarding masters who excessively punish their slaves.” That Pedro II cited immediate “disturbances” resulting from the cartas régias suggests that enslaved people in Brazil immediately acted upon the news of rights and protections.³³

³¹ “Carta régia de 20 de março de 1688” and “Carta régia de 23 de março de 1688,” in Silvia Hunold Lara, *Legislação sobre escravos africanos na América Portuguesa*, in *Nuevas Aportaciones a la Historia Jurídica de Iberoamérica*, ed. José Andrés-Gallego (Madrid: Fundación Histórica Tavera, 2000), 198-199. It is possible that some colonial authorities did not receive or discarded the March 20th carta régia. For example, the Arquivo da Cúria Metropolitana do Rio de Janeiro has only the March 23 carta régia. Beatriz Catão Cruz Santos, “E-278 –Ordens Régias, 1681-1809: Um código do Arquivo da Cúria Metropolitana do Rio de Janeiro,” *Topoi* 16 n. 30 (jan./jun. 2015), 14.

³² In fact, this was not the first time the Portuguese crown changed its course on protections for slaves in Brazil from mistreatment. A similar resolution drafted in 1642 obligated cruel masters to sell their slaves, but the crown revoked the decree before it could take effect because of what one nineteenth-century observer also called “inconveniences.” Balthazar da Silva Lisboa, *Annaes do Rio de Janeiro* (6) (Rio de Janeiro: Na. Typ. Imp. e Const. de Seignot-Plancher, 1835), 19. The original text of the decree has not been located. Silvia Lara suggests that this 1642 law may have been inspired by the one in Goa from 1599. Lara, *Legislação sobre escravos Africanos*, 167.

³³ “Carta régia de 23 de fevereiro de 1689,” in Lara, *Legislação sobre escravos africanos na América portuguesa*, 201.

Pedro II opted to annul the 1688 decrees, yet there is no indication that the core issues they addressed fell to the wayside. Enslaved petitioners kept the matter front and center through their petitions and appeals informing Pedro II of abuses over the next two decades. Less than one year after Pedro II backtracked on the 1688 decrees, an enslaved woman named Ursula petitioned the king alleging mistreatment from her master. Despite his own earlier reversal months earlier on the ability of slaves to change owners, Pedro II sided with Ursula and recommended that her master sell her for a just price.³⁴ In 1694, a free Angolan man named Domingos Lopes da Silva petitioned the crown alleging that in spite of a labor contract signed by the owner of a sugar plantation, he was “held within a closed house and branded, marking his arms as if to take his life.” Pedro II ordered Bahia’s governor to resolve the situation. Silva’s description of what was likely his enslavement or re-enslavement left a lingering image in the mind of the king, who requested that the governor inform him if “there are more individuals who are subjected to similar oppressions.”³⁵ The text of a 1698 carta régia suggests a correlation between the description of abuses in these types of appeals and the decision to arbitrate the treatment of slaves. Pedro II wrote to all of Brazil’s governors that he had been “informed that in this captaincy it is common for masters, in order to rigorously punish their slaves, to secure parts of their body with iron rings so that they are held down to suffer the cruelty of the punishment they wish to deliver.” He asked governors to cautiously investigate these claims, avoiding “unrest among masters” or “commotion among slaves.”³⁶ Again in March of 1700, Pedro II wrote to Bahia’s governor citing specific examples of harsh punishments delivered to slaves, mentioning some individual slave owners by name, and

³⁴ Carta Régia, January 11, 1690, *Anais do Arquivo Público da Bahia*, Vol. 28, 11. See also *Documentos Históricos*, vol. 68, 1945, 181, for the response in 1689 of Pedro II to Manuel do O’, whose freedom was violated by his former master’s widow.

³⁵ Carta Régia, January 25, 1695, *Anais do Arquivo Público da Bahia*, vol. 1, 115-116.

³⁶ “Carta Régia de 7 de fevereiro de 1698,” in *Legislação sobre escravos africanos na América portuguesa*, 211.

asking for local authorities to further investigate the claims and punish masters when applicable.³⁷ Given the nature of petitions from slaves as denunciations of cruelties and abuses since 1688, it is likely their specific claims shaped Pedro II's royal orders to Brazilian officials.

Marcelina's appeal for freedom was shaped by the broader tension between delineating the appropriate treatment of slaves and establishing their right to challenge their master. What is striking about Marcelina's petition was that she extended the denunciation of her master to her own right to purchase her freedom from her master. The 1688 and subsequent decrees only mentioned the recourse to changing masters, yet at some point enslaved peoples like Marcelina recognized that allegations of *sevícias* could be a significant, arguably essential, foundation for constructing an argument in favor of self-purchase. At least within Bahia, Marcelina's petition may have been one of the first to base an appeal for self-purchase in allegations of mistreatment. When Bahia's governor defended his decision to not free Marcelina in 1702, he believed it would have set a dangerous precedent. But he did not give the impression it was a widespread problem.

Yet only three years later, Bahia's new governor, Luis Cesar de Meneses, complained to the crown that slaves abused royal power in their appeals to the king, that they resorted to illicit dealings to gather savings for self-purchase, and that some even turned to witchcraft to trick authorities in Lisbon into believing petitioner's claims.³⁸ He framed appeals for freedom to the crown now as a wider occurrence. Among other cases, Meneses likely had in mind those of two enslaved women, Custódia Telles and Maria do Pilar, who both petitioned the crown in the years following Marcelina's petition, alleging sexual exploitation and abuse by their master, and offering to pay their master for their freedom. Both Custódia and Maria received favorable responses from

³⁷ Letter transcribed in Ignácio Accioli de Cerqueira e Silva, *Memórias Históricas e políticas da provincial da Bahia* (vol. 2), ed. Braz do Amaral (Salvador: Imprensa Official do Estado 1925), 149.

³⁸ Russell-Wood, "Acts of Grace," 321-322.

Lisbon and were ordered freed.³⁹ What is more, a letter from Salvador's municipal council in 1710 suggests that within a decade of Marcelina's petition slaves crafted expansive articulations of their rights to self-purchase.

According to the council, Salvador's slaves made local appeals for their freedom on the basis of a "privilege of São Salvador." The council explained that "if the [slaves] believe [their masters] treat them with the sevícias they claim, they would appeal to the justices of your majesty for the remedy that the law provides."⁴⁰ It is likely that the "privilege of São Salvador" referred to a privilege granted to the Lisbon brotherhood of Nossa Senhora do Rosário de São Salvador, who in 1688 petitioned Pedro II for the right to free slaves who were threatened by their masters with sale to Brazil.⁴¹ If the municipal council's letter is to be believed, slaves in Bahia learned of and invoked the privileges granted in Portugal, combined with allegations of mistreatment, to construct an argument for their own legal freedom.

It was not only in Bahia where allegations of mistreatment merged with claims-making for freedom. In late 1702, the brotherhood of Nossa Senhora do Rosário dos Homens Pretos in Pernambuco petitioned Pedro II on behalf of a sixty-year-old slave, Domingos Gomes, claiming that Gomes suffered from cruel treatment and punishment meted out by his master, Lourenço Gomes Mourão. Mourão stubbornly refused to accept the brotherhood's offer to pay for

³⁹ Ibid., 313-314. See also, *Anais do Arquivo Público da Bahia*, vol. 31, 166. For other cases of royal intervention following Marcelina Dias Silvestre's petition see the example of Teodora de Barros who appealed to the crown to free herself from a "cativeiro rigoroso." AHU-cód. 246, 210v. See also the reference to a case of a slave who appealed to the crown in 1702 that their master was cruel. José de Sousa Azevedo Pizarro e Araújo, *Memórias históricas do Rio de Janeiro* (Rio de Janeiro: Imprensa Régia, 1820), 251.

⁴⁰ Letter dated June 14, 1710 from Senado da Câmara de Salvador transcribed in Rosemeri Maria da Conceição, "O 'Arerê' das Ruas: Criminalidade e Histórias de Vida em Salvador no Século XVIII," (M.A. Thesis, Universidade de São Paulo, 1995), 97. Also partially cited and transcribed in Maria Beatriz Nizza da Silva, "A luta pela alforria," in *Brasil: Colonização e Escravidão*, edited by Maria Beatriz Nizza da Silva (Rio de Janeiro: Nova Fronteira, 2000), 296-297.

⁴¹ "Alvará de 22 de fevereiro de 1688," in *Legislação sobre escravos africanos na América Portuguesa*, 197. Silvia Lara found that a similar alvará was granted to the Irmandade de Nossa Senhora do Rosário da Vila de Moura on August 13, 1689. Ibid., 197. Both alvarás, it should be stressed, resulted from petitioning by the brotherhoods.

Domingos' freedom. Their petition sought a royal order obliging Mourão to accept the brotherhood's payment and free Gomes. In Lisbon, Pedro II forwarded the petition to the Overseas Council for consultation, which drafted a response that revealed some divided opinions amongst the council's members. Five of the six members agreed that the conflict between Gomes and Mourão should be resolved at the local level in the courts. In their view, royal intervention "will open a door to the ruin of all Brazil, whose properties are entirely comprised of slaves, because if one slave is disobedient and their master punished them, the slave will seek their freedom through these channels." Their opinion mirrored those of authorities in Bahia, who feared that only one case of royal intervention in the freedom of slaves could set into motion unintended consequences. One member of the council offered a dissenting opinion, believing that Mourão could not block Gomes' manumission if a fair price was set for his freedom. This dissenting opinion did not cite specific legislation, but rather pointed to the fact that Mourão denied Gomes his freedom, which was "the most favorable" under law. While the council was not evenly split down the middle in its opinions, the divergent opinions sent back to the crown revealed some disagreement about how to act on freedom appeals. Three days after the council completed their consulta, Pedro II sided with the opinion of the dissenting council member to free Domingos Gomes.⁴²

Although one historian has downplayed the impact of Pedro II's royal intervention in the governance of slaves as "relatively limited in scope," seen from the perspective of enslaved petitioners this could not be further from the truth.⁴³ Instead, enslaved petitioners often understood the king's intervention as a result of their own claims-making. For example, Marcelina's petition and its reverberations transcended her own time and place. Over one century after her appeal,

⁴² AHU-Pernambuco, cx. 20, doc. 1897. For the royal order sent to Pernambuco see AHU-Cód. 257, 173v.

⁴³ Stuart Schwartz, *Sugar Plantations in the Formation of Brazilian Slave Society* (New York: Cambridge University Press, 1985), 261-262.

enslaved petitioners in Bahia and Rio de Janeiro could be found invoking Marcelina and other successful petitioners as precedents for their own legal freedom. In early 1808, Vitória Maria petitioned João VI for her freedom alleging that her master subjected her daily to “such intense cruelties” that resulted in “incurable illnesses.” The petition cited royal orders from “January 11, 1620” and “March 18, 1701,” indicating precedents set by other enslaved petitioners. I have located no royal orders from 1620, but the 1701 reference, even with the slightly incorrect date, was undoubtedly Marcelina Dias Silvestre. Vitória Maria was also inspired and assisted by a parda woman named Ângela, who successfully petitioned João VI for her and her son’s freedom several years earlier. Vitória Maria attached a copy of Ângela’s royal order duplicated by an official in Bahia, a copy that was requested by Ângela herself in 1807. In other words, Vitória Maria and Ângela cooperated to generate a new petition for Vitória Maria, basing their claims in earlier efforts by Ângela herself and Marcelina.⁴⁴

Awareness of Marcelina’s petition travelled beyond Bahia, a testament to the impact and actions of enslaved petitioners outside their own place and time. In Rio de Janeiro around 1821, the petition of Magdalena invoked Marcelina and the March 20 decree of 1688 as the basis for her freedom. The petition claimed that Magdalena served her master obediently for sixteen years but still “suffered during this entire time the most cruel and ferocious punishments without deserving them.” The petition concluded by stating,

Now, Sir, the law of March 20, 1688 orders that masters punish their slaves with moderation, and if they use force, they be punished, and compelled to sell them to individuals who will treat them well; and an annual report on this matter will be executed, allowing slaves to denounce their masters. The royal decree of March 18, 1701 compelled the master of the slave Marcelina, resident of Bahia, to confer a letter of manumission after receiving her payment; and if

⁴⁴ Petition of Vitória Maria, BNRJ, C-181, 45. A copy of the royal order that freed Ângela and her son, Salvador, can be found in AHU- Cód. 608, 81. See also AHU-Bahia Eduardo de Castro e Almeida, cx. 115, doc. 22631.

they refused to do so, the justices would pass the letter of manumission.

In effect, the petition interpreted both the 1688 decree and Marcelina's petition as foundational to Magdalena's claims to freedom; taken together, they offered the justification for her freedom. The petition underscored precisely what the crown and officials feared after the initial release of the 1688 decrees: that slaves would act on them as an established right.⁴⁵ Marcelina's petition held a powerful significance for at least two enslaved petitioners who lived in a different time and place. Even if one cautiously attributes the invocation of Marcelina to procuradores who sifted through records of cartas régias to locate precedents, they still chose to cite Marcelina's petition. Furthermore, they would have shared that knowledge amongst other slaves and freed people, which may have occurred with the cooperation between Ângela and Maria Vitória.

Marcelina's petition and those it inspired allow us to rethink the making and enforcement of slave laws in the early eighteenth century not only from those religious reformers who expounded a "Christian theory of slave governance," but also from those who were enslaved.⁴⁶ In this regard, Magdalena and Maria Vitória's petitions are powerful examples of the long and connected histories of enslaved peoples' claims-making in favor of rights and protections. What is evident from this brief genealogy of Marcelina's petition is that while the power to arbitrate slave owners' mastery rested with the crown, enslaved peoples in Brazil were not simply observers of changing and contested attitudes regarding rights and protections. They were active participants in shaping the terms of the discussion. Although Pedro II never directly cited enslaved petitioners in his cartas régias, he displayed an openness to hearing appeals. When he wrote in letters and decrees of being "informed" of cruel punishments, he was incorporating more than just correspondence

⁴⁵ BNRJ, C530-16.

⁴⁶ Rafael de Bivar Marquese, *Feitores do corpo, missionários da mente: Senhores, letrados e o controle dos escravos nas Américas, 1660-1860* (São Paulo: Companhia das Letras, 2004), 65.

from religious reformers or governors. While much of the historiography surrounding the reign of Pedro II emphasizes the voices of colonial and religious officials in reforms in the treatment of slaves, it must also be understood that these efforts resulted from diverse ways that enslaved peoples developed claims that forced the crown to walk a fine line between granting a legal right or handling claims on a case by case basis.

A Chorus of Voices

In two centuries after the 1688, enslaved petitioners continued denouncing abusive masters. Petitions written in the eighteenth century continued to draw a clear line between allegations of abuse and the recourse to self-purchase, despite the revocation of the 1688 decree by Pedro II. Nearly thirty years after Marcelina's petition, Ignacio Xavier petitioned João V (1706-1750), complaining of "intolerable punishments and extraordinary abuses." After his master expelled him to Rio de Janeiro as another form of punishment, Xavier appealed to the crown requesting the "royal protection of Your Majesty in order to be freed from this cruel enslavement."⁴⁷ From a rural region in São Paulo in the 1740s, Josefa Maria do Rosario petitioned João V on behalf of her husband. She had acquired the money to purchase her husband's freedom, but his master, being a "very respected and powerful man," refused to grant the manumission, committing "horrific torments and various punishments" against him.⁴⁸ Moved by Rosario's appeal, João V ordered that her husband be placed in safe custody away from his master while the matter was investigated. If verified, his master was to free him.⁴⁹ Just a few years before the Portuguese court moved from

⁴⁷ AHU-Bahia Avulsos, cx. 46, doc. 4056.

⁴⁸ AHU-São Paulo Alfredo Mendes Gouveia, cx. 36, doc. 3055.

⁴⁹ AHU-Códice 197, 62-62v.

Lisbon to Rio de Janeiro in 1808, a pardo slave named Silvestre sent two similarly-worded petitions to Portugal denouncing his master's "barbaric punishments."⁵⁰

Throughout the eighteenth century, petitions also evolved in critical ways that framed self-purchase as a right, turning Portuguese imperial legislation and what many referred to in petitions as the "spirit of the laws" into malleable foundations to fit individual and collective circumstances. Whereas late seventeenth- and early eighteenth-century petitioners largely rested their claims within the discourses of *sevícias*, petitioners by the late eighteenth century carved out distinct positions for themselves as insiders of the Portuguese Empire, deserving of royal protection as "miserable captives," subjects with limited rights, or in some cases, as humble vassals. Cruelties, abuses, and punishments continued to thread the claims of petitions, yet petitioners also levelled individual claims, often successfully, that threatened the perceived rights of slave owners and that framed self-purchase as an obligation of slave owners to their masters.

The petition of Isabel Francisca de Sousa to Queen Maria I in 1780 illustrates how enslaved petitioners positioned themselves as subjects deserving of royal protection. Sousa, an enslaved West African woman in Pernambuco, claimed that her master refused to accept her payments in exchange for freedom. Sousa's petition described Maria I as the "Mother, and benign protector of slaves and the afflicted." Framing Maria I as the maternal protector of enslaved peoples, Sousa implicitly situated herself within the Portuguese Empire as an afflicted subject, without necessarily using that very word.⁵¹ Similarly, when the enslaved pardo Silvestre petitioned João VI for the "grace of freedom," he described the prince as the "Father" who provides "protection and consolation of his vassals." João VI responded by ordering Rio's viceroy to investigate Silvestre's

⁵⁰ For Silvestre's two petitions, see AHU-Rio de Janeiro, cx. 251, doc. 17065; ANRJ, SEB, cód. 67, vol. 31, 307-308.

⁵¹ AHU-Pernambuco, cx. 138, doc. 10266.

claims, and free him “according to what the laws determine in similar cases.”⁵² In referring to “similar cases,” officials and the crown acknowledged their memory of other enslaved petitioners across Brazil. Some slaves invoked special privileges. Such was the case for royal slaves who labored in the name of the crown and on its properties throughout Portuguese America. Sometime in 1728, the royal slave André de Sousa petitioned João V, explaining that he was ill after thirty years of service to the crown. “Incapable of serving,” André de Sousa pleaded for his freedom. Through his councilors, the king ordered the governor of Rio de Janeiro to investigate Sousa’s claim, describing Sousa as “my slave.” In this way, Portuguese monarchs affirmed the subject-positioning of enslaved petitioners through their responses.⁵³

In some petitions, enslaved supplicants went even further in self-fashioning identities before the crown. The language of subjecthood and vassalage was one way in which enslaved petitioners represented themselves as subjects with legal consciousness.⁵⁴ In the 1770s, a Benguelan woman named Joana Correia battled for many years with a merchant in Rio de Janeiro, who had purchased her right before her previous master finalized her manumission. Fearing that Correia had overheard his plans to “destroy the life of his father-in-law,” her new master sold her south to Rio Grande do Sul. Correia and her procurador sent numerous petitions to Queen Maria I, the last of which described Correia as a “disgraced and afflicted vassal of Your Majesty” seeking justice and her letter of manumission.⁵⁵

At the turn of the nineteenth century, a petition to João VI from an enslaved tailor named Francisco Correia das Chagas fashioned a similar identity. Chagas alleged that his master promised

⁵² ANRJ, SEB, cód. 67, vol. 31, 307-308.

⁵³ AHU-Rio de Janeiro cx. 20, doc. 2186. Other examples of royal slaves petitioning monarchs can be found in BNRJ, C 432-51; BNRJ, C- 877, 14; BNRJ, C-464, 41.

⁵⁴ Schultz, 165-176. Mariana Candido, “African Freedom Suits and Portuguese Vassal Status: Legal Mechanisms for Fighting Enslavement in Benguela, Angola, 1800-1830,” *Slavery and Abolition* 32, no. 3 (2011), 447-459.

⁵⁵ AHU-Rio de Janeiro cx. 98, doc. 8468.

him the chance to buy his freedom, but his master's descendants refused to honor this promise. They privately imprisoned him in their own home for three months. Chagas' petition opened by describing himself as "prostrate before the royal feet of Your Royal Highness, as a faithful American vassal," a physical and symbolic posture which, as Sherwin Bryant reminds us, was a way that slaves "had to present and 'perform' their cases in a manner that was consistent with conceptions of royal power."⁵⁶ Chagas symbolically bowed before the crown fearing additional "violence" from his former masters' heirs. João VI and his councilors ordered an investigation into the matter, and if the claims were verified, Chagas was to be freed.⁵⁷ Around the same time, another petitioner from Bahia claimed that "even though he is a slave, he is a vassal of Your Majesty."⁵⁸ These two seemingly competing identities, slave and vassal, expressed often in petitions, provided a basis for which to level claims about manumission. Enslaved petitioners situated themselves within the symbolic orbit of the Portuguese Empire, worthy of royal protections and rights even if they were enslaved.

When enslaved petitioners and their procuradores brought appeals before the crown, they created justifications for their freedom out of an assemblage of diverse laws, such as canon law, natural law, and sometimes particular legislation within the Portuguese imperial world. Enslaved petitioners showed that, far from a single body of regulations, slave law could be built out of diverse and seemingly competing discourses, existing legislation, or the "spirit of laws." In this regard, natural law was perhaps the most commonly cited justification for manumission, after accusations of cruelty, abuse, or other physical harm, for arguments in favor of self-purchase.⁵⁹ A

⁵⁶ Bryant, *Rivers of Gold, Lives of Bondage*, 125.

⁵⁷ AHU-Rio de Janeiro, cx. 184, doc. 13338.

⁵⁸ AHU-Pernambuco, cx. 214, doc. 14539. On this petition, see Russell-Wood, "Acts of Grace," 319-321.

⁵⁹ Maria Beatriz Nizza da Silva suggests that petitions throughout the eighteenth century replaced accusations of *sevícias* with appeals to natural law. While there is a notable increase in references to natural law, it would be incorrect to trace the trajectory of allegations of *sevícias* and natural law in such a teleological manner. Rather, the

petition from Carlos Crioulo, described as a “miserable supplicant,” went so far as to declare that “Freedom, sir, is owed to man by natural right; it is favored by all of the laws; it is amplified and paternally protected by the just, holy, and wise laws of Your Majesty.”⁶⁰ The petition of Isabel Francisca de Sousa, mentioned above, staked its claim to self-purchase by positing slavery as a temporary status, because freedom was “promised to her by divine and natural law.” According to her petition, her master’s recalcitrance “increasingly subjected the miserable supplicant to an eternal slavery.” Sousa’s appeal captured Queen Maria’s attention, who ordered Pernambuco’s governor to investigate the matter and return a report. Sousa’s master likely learned of her attempts to appeal to Maria I, because shortly after the Queen’s royal order, he executed a letter of manumission.⁶¹

Petitions expressed a belief that Portuguese law, in accordance with natural law, justified redemption from slavery. Queen Maria I and her councilors probably had Isabel Francisca de Sousa’s petition in mind when they received one from Antonio Correa Furtado de Mendonça. From Pará, Mendonça hoped to free his nephew, who was “in the power and captivity” of a cruel master who punished him “out of his hatred for freedom.” Mendonça’s petition not only contended that “freedom is very favorable under law,” but more precisely that the “freedom of any slave... is very favorable and worthy of compassion.”⁶² The 1787 petition of Felipe also utilized this discourse. Likely an African-born slave, Felipe’s petition recalled serving his master in Rio de Janeiro for some twenty-nine years; however, he struggled to negotiate a just price for his freedom.⁶³ According to the petition, his stubborn master “impiously” violated Felipe’s right to

two often co-existed, were not linearly fashioned, and were part of the same assemblage from which enslaved petitioners and their procuradores drew. “A luta pela alforria,” 306.

⁶⁰ AHU-Bahia cx. 176, doc. 13267.

⁶¹ AHU-Pernambuco cx. 138, doc. 10266. For Queen Maria’s royal order, see AHU-cód. 583, 227.

⁶² AHU-Pará cx. 89, doc. 7238.

⁶³ Felipe is described as “preto,” or black, a color designation typically reserved for Africans.

purchase his freedom, which was “the most favorable thing in law.”⁶⁴ In petitions like these, the character and honor of slave owners were further implicitly and explicitly questioned, positioning slaves in a closer symbolic proximity to Portuguese monarchs than slave-owning subjects.

Some proposals did much more than denounce individual situations; they also supplicated for a law. In 1786, one petition from São João del Rei, a mining town in Minas Gerais, delivered an expansive and alternative reading of existing laws and privileges in favor of the redemption of all Christian slaves. A collective petition from the Irmandade de São Gonçalo Garcia, comprised of free and enslaved pardos, assembled nearly all of the elements and strategies from other enslaved petitioners since the beginning of that century into one direct appeal for a law. The brotherhood first appealed to natural law, claiming its members faced a “perpetual enslavement” when their masters denied their offers of self-purchase. The natural right of slaves to their manumission, the brotherhood continued, clashed with slave owners’ conviction that “no one can be compelled to sell their property.” However, even the right to property had its limits, especially when it involved matters of the “public good.” Rather than hinder society writ large, slaves’ right to manumission actually benefitted the Portuguese Empire because it acquired “new vassals useful to the state, new farmers for the land, new settlers for the hinterlands, new explorers for gold mines...” and so on. If officials in Brazil and Portugal feared a large freed population of color resulting from more access to manumission, the petition assured the Queen, through the language of conquest and empire, that freed vassals could only benefit Brazil.

The brotherhood also appealed to a set of privileges as Christians, questioning why the *Ordenações Filipinas* made provisions for the redemption of Moors. In theory, the *Ordenações*

⁶⁴ AHU-Rio de Janeiro, cx. 130, doc. 10315.

Filipinas allowed for the redemption of Moors if it also involved the return of a Christian slave.⁶⁵ In their view, “The master of a Christian should be compelled to receive the fair price of their slave and to free them,” because “it is unjust that the Moorish slave is treated better than the slave born a Christian.” The petition’s final arguments complicated the distinction between metropole and colony by adapting recently passed legislation concerning slavery in Portugal to claims for freedom within Brazil. The petition cited the royal alvará of 1773, passed during the tenure of the Marquês de Pombal, which freed fourth generation slaves in Portugal and declared free any child born to enslaved women thereafter.⁶⁶ The brotherhood argued that this free womb law was not bounded strictly to the Portuguese metropole, but that enslaved peoples in Brazil also deserved to benefit from it. Similarly, the petition’s final argument appealed to the privileges granted to some brotherhoods in Portugal to free their enslaved members from cruel and retributive masters. Brotherhoods like theirs within the church São Gonçalo Garcia were equally deserving of the right to free its members because in Portugal, “slavery is not as frequent or rigorous.”

Although it could be said that the Irmandade de São Gonçalo Garcia only pursued the privilege to free its own enslaved pardo members, in effect the petition articulated a distinct interpretation of Portuguese law that insisted on rights and privileges to all enslaved peoples, particularly Christians, in Brazil. To support their claims, the brotherhood denounced the abusive and exploitative conditions that slaves from across Brazil also raised in their petitions, citing cruel punishments meted out to those with a “natural desire to free,” refusals by slave owners to free enslaved women held as concubines, and the abandonment of elderly slaves. What is more, the brotherhood shrewdly preempted inevitable concerns amongst imperial officials that rights to

⁶⁵ Book 4, Title 11, §4, in Cândido Mendes de Almeida, *Código Filipino ou Ordenações do Reino de Portugal* (Rio de Janeiro: Tipografia do Instituto Filomático, 1870).

⁶⁶ Lara, *Legislação sobre escravos africanos na América Portuguesa*, 359-360.

manumission through self-purchase financially or politically prejudiced slave-owning vassals and the empire. In response to the inevitable disquiet amongst officials that the right to self-purchase limited slave owners' rights, the petition stressed indemnification in all instances, and imagined freed vassals as productive members of the empire. One can imagine the collective endeavor of crafting and debating the petition amongst enslaved and freed members of the brotherhood who perhaps contributed justifications, shared their own firsthand experiences that found their way into the petition's denunciations, learned of or disagreed with particular interpretations of law, shared knowledge of the petition with non-members, or waited for news of how the appeal was received in Portugal. The final outcome of the petition is unknown. One reaction left in the margins of the petition indicated disagreement with the appeal's justifications. Acknowledging that the final decision to concede the privilege rested with the crown, the councilor advised that manumission appeals be assessed on a case-by-case basis.⁶⁷

An equally extraordinary petition several years later pressed João VI to enforce what one enslaved supplicant described as an actual "holy law" protecting slaves. In 1801, José Mina petitioned João VI from Rio de Janeiro seeking the "observance of the holy laws of the monarchy...in favor of miserable captives." More specifically, the petition continued, José identified a particular "holy law established in their favor" that obligated his master, a powerful merchant and captain in Rio de Janeiro, to confer his manumission in exchange for payment. The petition described João VI as the "exclusive authority over slaves," echoing a broader belief amongst enslaved petitioners that the crown was the protector of "miserable captives" across Brazil. Moreover, the petition drew a line between his own standing within the Portuguese empire and his master's recalcitrance: "[José] does not appear to be a vassal of Your Royal Highness in

⁶⁷ AHU-Minas Gerais, cx. 125, doc. 20.

order to enjoy the observance of the holy law.” With this sly phrasing, José’s petition demonstrated that the violation of the law cut deeper into the fabric of the relations between enslaved vassals and the crown, who legitimated and amplified the “holy law.”

When José and his procurador appealed to the “freedom that the law ordered,” they expressed a slave-centered view of law composed of customs, privileges, precedents, and limited rights legitimated by the crown for its enslaved subjects. This was not a law that could be found in the *Ordenações Filipinas*, nor was it ignorance or a misunderstanding. José and his procurador drew upon knowledge of the petitioning process and probably other successful enslaved petitioners in pursuing the royal appeal process. Moreover, while no procurador signed their name to the petition, the religious framing of a “holy law” that sanctioned self-purchase allows us to speculate that a local Catholic brotherhood may have assisted José in drafting the petition.⁶⁸ In this sense, the petition might have learned of privileges granted to black brotherhoods in Portugal to free their enslaved members, privileges themselves initiated through the petitioning process.⁶⁹ Additionally, we have already seen how slaves in Salvador in the early eighteenth century spoke of a privilege of São Salvador that facilitated their successful manumission, and how the members of São Gonçalo Garcia were aware of privileges granted to particular brotherhoods in Lisbon. Whether or not this petition was the fruit of a brotherhood’s collective efforts, the petition nevertheless bespeaks a conception of rights and law that transcends historians’ search for codified laws in colonial society.

⁶⁸ For a discussion of the role of Brotherhoods in freeing their enslaved members, and more specifically a brotherhood comprised on Mina slaves, see Mariza de Carvalho Soares, *People of Faith: Slavery and African Catholics in Eighteenth-Century Rio de Janeiro* (Durham: Duke University Press, 2011).

⁶⁹ For one example of this privilege in the late-eighteenth century, see the royal *provisão* of November 29, 1779, which granted the Irmandade de São Benedito e Nossa Senhora de Água de Lupe de São Francisco the privilege to purchase the manumission of slaves in Portugal threatened with sale to territories outside the metropole. Lara, *Legislação sobre escravos africanos na América Portuguesa*, 362-363.

The petition must have left an imprint on João VI, because in a royal order dated September 12, 1801, the prince's secretary of state directed Rio's viceroy to investigate the veracity of the petition. If the petition's claims were true, he must "defer to the supplicant in order for him to obtain the freedom he requests, first paying his master." In the royal order from Lisbon, the matter turned not on a legal question that could be resolved by, for example, the chancellor of Rio's high court of appeals, but rather by the viceroy, who needed to verify that José's master indeed refused to grant the manumission. Nevertheless, Rio's viceroy, Fernando José de Portugal, took it upon himself to discredit the basis of the appeal, illustrating the disjuncture between his and José's interpretation of the law.⁷⁰ In a letter the following March, the viceroy replied that "The supplicant falsely believes there is a law that obliges slave owners to give their slaves freedom." Instead, he continued, had José alleged *sevícias*, "perhaps his claim would be valid." For this reason, the viceroy did not execute the royal order. Here was a reality of the petition process. Even when enslaved petitioners successfully voiced their claims to the crown, local officials invested in preserving the power of slave owners could offer their own conclusion to the months-, sometimes year-long petitioning process. As Rio's viceroy criticized José's petition for its insistence on a law that did not exist, he also revealed the differences between enslaved and freed persons' conception of law and rights and that of colonial or imperial officials.

By the early years of the nineteenth century, petitions like these travelled from Brazil to Portugal, fashioning appeals out of an assemblage of ideas, precedents, and perceived laws which could result in favorable decisions for slaves. On their own, the petitions are remarkable examples of enslaved peoples' persistence in pursuing different legal channels in hopes of acquiring legal freedom. Yet when viewed collectively, the threads between Isabel Francisca de Sousa in Recife,

⁷⁰ AHU-Bahia Eduardo de Castro e Almeida, cx. 84, doc. 16501.

the brotherhood of São Gonçalo Garcia in São João del Rei, and José Mina in Rio de Janeiro reveal connected claims from individuals who never met, yet who caused the empire's highest figures to evaluate legal claims. As these petitions travelled to Lisbon, they forced, as we will see in the next section, sometimes explicit and wide-ranging discussions about the nature and future of slavery throughout the empire.

The Making and Unmaking of a Law in Maranhão

If we understand individual petitioners as also belonging to a larger group sprawled across Brazil and having never met, what collective effect did that group have? It is widely understood among historians of Brazilian slavery that no law obligated slave owners to manumit their slaves in exchange for payment until 1871.⁷¹ However, a royal order from João VI dated March 16, 1801, only in effect for three years and just on the margins of the empire, in the captaincy of Maranhão, suggests that the cumulative efforts of enslaved petitioners across Brazil materialized into an actual law governing self-purchase. This royal order granted officials in Maranhão the authority to assess the market value of individual slaves, and to compel slave owners to accept the money offered by slaves for their freedom.

The 1801 decree emerged in a period of increased petitioning from slaves in Maranhão at the turn of the eighteenth century. Their petitions appeared in Lisbon alongside those from slaves across Brazil, like that of José Mina. Between 1798 and 1800, for instance, the crown and its administrators in Lisbon responded to at least five petitions concerning manumission from that captaincy alone. One such petition came from Antonia Correa, who appealed to João VI alleging that her master stubbornly refused to grant her manumission even though payment had been

⁷¹ Cunha, "Silences of the Law."

offered multiple times. Antonia's petition argued that the Portuguese laws worked "according to natural law, opening the path to the redemption of their freedom."⁷² Around the same time, a freed man named Luis da Costa Gama pleaded for his son's freedom, as his master refused to grant it.⁷³ Petitions from three other slaves in Maranhão also found their way to Lisbon, where officials responded by ordering the captaincy's governor to investigate their claims.⁷⁴ Given the sudden frequency of petitions like these from just Maranhão, there may have been some degree of awareness, perhaps even cooperation, among these petitioners. They may have shared their experiences with each other, or learned through word of mouth that petitions from slaves gained the attention of officials in Lisbon.

One petitioner, in particular, took it upon himself to express the collective struggles of enslaved peoples in obtaining their freedom in Maranhão. In 1800, a pardo man named António Manuel petitioned João VI complaining that slave owners in Maranhão discouraged manumission by setting inflated prices on freedom, a common refrain from other petitioners. I could not locate the actual petition, but based on correspondence and the response from Lisbon, the impact of António Manuel's appeal on João VI was such that for the first time in Brazil's history, a royal decree was composed to regulate manumission through self-purchase. The March 16, 1801 decree read,

The Prince Regent our Lord is presented with the petition of the pardo António Manoel, in which he says that there are many slaves in that captaincy who wish to purchase their freedom by giving their masters the price at which they are appraised but cannot because of the exorbitant sums that the said masters ask for. Your Royal Highness determines that if this claim is true, Your Excellency will judicially appraise the said slaves and compel their respective

⁷² AHU-Maranhão cx. 99, doc. 8051.

⁷³ AHU-Maranhão, cx. 102, doc. 8234.

⁷⁴ For Boaventura Gomes, see AHU-Maranhão cx. 96, doc. 7857; cx. 102, doc. 8238; and AHU-Códice 598, 203v; For Rosaura, see AHU-Maranhão, cx. 102, doc. 8230; For Gonçalo Marinho de Queiroz, see AHU-Maranhão cx. 107, doc. 8454.

masters to give them their freedom once they have received the prices at which they were appraised.⁷⁵

In theory, the decree provided enslaved peoples seeking their manumission with the right to be assessed by judicial authorities to set and pay their masters a fair price for their freedom. There is reason to believe that the decree borrowed phrasing from António Manuel's original petition. To save time in pouring through petitions, imperial officials often directly borrowed sentences from petitioners rather than re-phrasing them. As such, his petition may well have phrased the decree.⁷⁶ Even though at the heart of the decree was a problem that affected nearly every corner of Portuguese America, the order was still inexplicably only limited to Maranhão. Still, there are several reasons to interpret the text of this decree as establishing a right to self-purchase. First, the crown actually sent two decrees to Maranhão in response to the appeal. The first only addressed the individual case of António Manuel, and was summarized in marginalia as "regarding the petition of the pardo Antonio Manoel" while the second, whose passage is cited above, was described in marginalia as "with respect to the slaves who wish to buy their freedom." In other words, the decree concerned any "slaves who wish to purchase their freedom."⁷⁷ Second, officials in São Luis immediately identified the consequences of the decree and discredited António Manuel's claims. Maranhão's governor Diogo de Sousa responded that "if this resolution in favor of freedom is passed, there will be many inconveniences that when considered will require it to be revoked."⁷⁸ Investigating the matter, another local judge charged that the petition was full of lies.⁷⁹

Central to the decree was a fundamental challenge to the rights of slave owners in Maranhão, rights which could now be limited if slaves presented themselves before local officials

⁷⁵ AHU-Códice 599, 112.

⁷⁶ Masters, "A Thousand Invisible Architects."

⁷⁷ The marginalia can be found in AHU-Códices 599, 112, alongside the entries for avisos numbered 22 and 23.

⁷⁸ AHU-Maranhão cx. 116, doc. 9012.

⁷⁹ *Ibid.*, doc. 9015.

requesting their fair market value. This was precisely the concern for Manuel António Leitão Bandeira, a former high magistrate in Maranhão, whose slave was freed by the captaincy's governor on the basis of the decree. Sometime in 1803, Marciana approached local judges requesting her freedom. Maranhão's governor declared her free in accordance with the 1801 decree. While the immediate local aftermath of the decree is unknown, Bandeira's petition indicates that the governor did enforce the royal order. Bandeira challenged Sousa's decision to free Marciana in an impassioned petition to João VI. Having served as a high magistrate and well-versed in law and philosophy, Bandeira disputed the decree by citing a passage from Montesquieu's *The Spirit of Laws*, titled "A Bad Method of Giving Laws." This was a bold move, as the full passage from Montesquieu's original text warned against interpreting royal decrees passed by "ignorant princes" as positive law rather than natural law. While he omitted that part, Bandeira argued the royal decree of 1801 could not be haphazardly applied to any and all slaves pursuing their freedom.⁸⁰

In Lisbon, the prince instructed the Overseas Council to review Bandeira's appeal. The council seized this opportunity to caution João VI against preserving the decree, while doubling down on the urgency of preserving slave owners' property rights. To argue in favor of protecting the rights of slave owners, the council first cast Brazilian slavery in a broader world historical context. In various societies throughout the world, they posited, slavery and servitude were central and foundational. In their view, Portuguese expansion first in Africa and then America evolved into a trade in "foreign arms" for agricultural and mineral production in Brazil, after the reduction of the indigenous population in the fifteenth and sixteenth centuries. Across different European empires in the Americas, tracts and regulations concerning the governance of slaves emerged, such

⁸⁰ M. de Secondat Baron de Montesquieu, *The Spirit of Laws* (London: George Bell and Sons, 1905), 268.

as the French Code Noir in 1685. Still, even with these measures, “nothing facilitated the manumission of black slaves.” Neither did the Romans, the council continued, “understand redemption as part of slavery.” In short, history showed that where there was slavery, there was not necessarily a corresponding mechanism that sanctioned access to manumission.

The council implicitly acknowledged their fear that some new rights were gradually emerging for slaves. This was certainly their view on the 1801 decree, which they described as “legislated” by the prince himself, underscoring their view that it was an actual law and not an individual ruling. By now, both the council and the prince would have been quite aware of other enslaved petitioners, and probably viewed Marciana’s manumission in light of other royally-decreed manumissions from Brazil. After all, José Mina’s petition citing a “holy law” arrived in Lisbon around the same time that the 1801 decree was sent to Maranhão. Furthermore, the council connected concessions to slaves with their fear of a massive revolution the likes of which occurred closer geographically to Maranhão than Bahia or Rio de Janeiro: “it will be harmful and very irreparable if there are so many libertos without occupations, who might even attempt to seize authority, like what was scandalously witnessed on the Island of São Domingo.” Whereas a century earlier authorities warned about the grave consequences of hearing enslaved petitioners with the backdrop of Palmares, a century later the council (as well as others) read claims to freedom through manumission against Haiti.⁸¹ The “slippery slope” argument—that one or a few successful petitioners could lead to disarray—enduring since the late seventeenth century, implicitly

⁸¹ On the impact of Haiti in Brazil, see Carlos Eugênio Soares e Flávio Gomes, “Sedições, Haitianismo e conexões no Brasil escravista: outras margens do Atlântico negro,” *Novos Estudos* 63 (Julho de 2002), 131-144; João José Reis and Flávio dos Santos Gomes, “Repercussions of the Haitian Revolution in Brazil, 1791-1850,” in *The World of the Haitian Revolution*, edited by David Patrick Geggus and Norman Fiering (Bloomington: Indiana University Press, 2009).

acknowledged the agency of slaves to build upon individual claims and successes, with the consequences feared to spread far beyond what could be controlled.

Ultimately, but not surprisingly, the council favored *Bandeira's* position. They recommended the crown revoke the 1801 decree, "restoring everything to its former state, and not making any other provisions that regulate these rights in Portuguese America." One month later, *João VI* heeded the council's advice. He revoked the 1801 decree and rescinded *Marciana's* freedom, allowing *Bandeira* to now defend himself against her allegations before a local judge in the captaincy.⁸²

Yet, *João VI* did not entirely abandon the matter. While he probably accepted the council's view that Brazil's future depended on the protection of slave owners' rights, the influx of petitions from across Brazil left him unsatisfied that an empire dependent on slavery could function in the absence of clearly distinguished rights. *João VI* personally ordered that the "council write a consultation discussing their ideas regarding a law that declares, determines, and settles the respective rights of slave owners and of slaves in all of my overseas territories, ending (where possible) the arbitrary and uncertainty in such a delicate and important subject."⁸³ I found no evidence that the Overseas Council responded or fulfilled his request. The council, unequivocal in their view of protecting *direito de propriedade*, probably ignored the request, keeping *João VI's* attention on other pertinent matters affecting the empire. Nevertheless, the request is a rare and brief glimpse into the view of a monarch, in their own words, of the uncertain nature of law regarding slavery. *João VI's* request for a law clarifying the rights of slave owners and slaves alike, though never passed, was the direct result of enslaved petitioners who continually brought their individual circumstances to his attention.

⁸² AHU-Código 199, 235-235v.

⁸³ AHU-Maranhão, cx. 136, doc. 9968. *João VI* wrote and signed the resolution in the consulta's margin.

If João VI sensed an “uncertainty” in how the rights of slaves and slave owners were defined, it was because enslaved petitioners supplicated for their legal freedom. João VI’s tendency to listen to enslaved petitioners, the 1801 decree, and the 1804 request for a law delineating the rights of slaves and slave owners cannot be reduced to a monarch’s benevolence or liberality. To be sure, Portuguese monarchs were always engaged in a delicate balancing act of representing themselves with both absolute power and grace. Still, the initiative of petitioners placed self-purchase front and center in their claims before the crown, and, in fact, often shaped the very terms of the discussion. João VI was surely mindful of other manumission appeals, as he ruled on many originating from nearly all corners of Portuguese America. Yet it was António Manuel’s petition, expressing the collective struggles of slaves in achieving their manumission, that generated a discussion amongst the highest-ranking royal councilors about how to preserve, not resolve, “uncertainty” in Portuguese laws on slavery. Doing so, as they showed in 1804, could defend the legitimacy of slavery and lead Portugal’s overseas colonies in a direction different from what they were hearing and learning about in other parts of the Americas.

Conclusion

This chapter explored how enslaved petitioners from Brazil engaged with royal power to articulate and enforce customary rights to manumission. Their petitions are powerful testaments to the kinds of trans-Atlantic claims-making and litigiousness that emerged throughout the South Atlantic in the eighteenth century. Whether identifying as vassals, as subjects with limited rights, or as “miserable captives,” enslaved petitioners tapped into what Antonio Manuel Hespanha has called an “economy of grace”; in the process, they contributed to remaking royal grace into an avenue for affirming limited rights to manumission through self-purchase. While royal responses

to individual petitions did not have the force of law, successful petitioners set important precedents for other enslaved people in their communities and beyond to continue making appeals for self-purchase. Such was the case for Vitória Maria, who attached to her petition a copy of a royal decree given to her by another successful petitioner, Ângela, years earlier, hoping to remind the crown of that decision. Much like the enslaved sailors, servants, and runaways who were discussed in chapter two, the enslaved petitioners who brought their claims into the heart of the empire (but never physically left Brazil) recognized that the sovereign imposed a powerful intervening force in the relation between slave and master. The accumulation of these petitions from all corners of Brazil helped to legitimize self-purchase as a custom. Over the course of the eighteenth-century, this custom slowly turned into what José Mina called a “holy law.”

The decrees of 1688 proved to be watershed laws in the longer history of slavery in colonial Brazil. While there is some indication that orders regulating the treatment of slaves were passed in the prior century, it was in the context of Palmares’ and the influence it imposed over the South Atlantic that Pedro II felt the pressures to pass legislation that could at least temper conflicts between enslaved people and their masters, discouraging them from forming runaway slave communities. The quick revisions of the 1688 decrees by Pedro II and his councilors in the following decade speaks to the power of enslaved petitioners to immediately apply the decrees to their own circumstances. I have argued that Marcelina Dias Silvestre, who won her freedom by invoking *sevícias*, set a powerful precedent over the next century. In her own time, she appears to have sparked a wealth of petitions among enslaved people, and particularly women, in Salvador Bahia. Throughout the rest of the eighteenth century, rarely did petitions not include some kind of reference to *sevícias*. But she also herself became an important reference point for other enslaved petitioners long after her time. In two petitions I consulted, enslaved petitioners invoked her 1701

decree as the basis for their own freedom. In this way, the claims of individual petitioners were connected.

This chapter has also uncovered evidence to suggest that enslaved petitioners, through individual appeals, prompted dialogues about the “uncertainties” of Portuguese law surrounding manumission. The petition from the São Gonçalo Garcia brotherhood is, to my knowledge, the first known proposal for a written law establishing the right to self-purchase proposed by people of African descent or their representatives. Royal councilors did not seem intrigued by the appeal. By responding that freedom appeals should be judged on a case-by-case basis, they essentially sought to preserve the “uncertainties” in law that João VI would fifteen years later observe. Precisely one hundred years after Marcelina Dias Silvestre won her freedom, appeals from Maranhão and the debates they instigated led João VI to actually order a draft law concerning the uncertainties of manumission. Ultimately, such a law was never passed, a reminder of the “inconveniences” that royal councilors feared, whether in the context of Palmares’ demise or Haiti’s rise. By more closely tracing the collective impact of petitioners throughout the eighteenth century on issues of *sevícias* and self-purchase, we are better positioned to understand the role of enslaved people in shaping interpretations about manumission and enforcing customs.

CHAPTER 4

Para fora da terra: Atlantic Exiles and the Struggle for Freedom

If a freed brother or a freed sister leaves this land
or goes to a place where they cannot be found,
or if a slave is banished because of an incident with their master
and he/she does not reappear within one year,
the Brotherhood will be obligated to say ten masses
as if the said individual had died.

—Nossa Senhora do Rosario e São Benedito dos Homens Pretos
Vila de Santo António de Sá, Rio de Janeiro
May 1769¹

This chapter reconstructs the lives and experiences of three individuals—Antonio Francisco Granjeiro, Joana Correia, and Boaventura—who struggled against the double subjection of enslavement and exile. They were contemporaries, but did not know one another. While Antonio Francisco Granjeiro was exiled from Brazil to Angola through the legal mechanism of the donation, Joana Correia and Boaventura were among the unknown number of enslaved people who felt the anguish of banishment through sale to Brazil's far southern captaincy, Rio Grande do Sul. Their incredible, often troubling, trajectories are available because of a relatively extensive paper trail they left behind in archives across the South Atlantic—from Rio de Janeiro, Rio Grande do Sul, Angola, and even Mozambique. Focusing on their stories, which span the late eighteenth and early nineteenth centuries, I explore how enslaved people confronted with forced removal from their communities transformed their circumstances into arguments for legal freedom. To do so, they improvised, repurposed, and deployed popular conceptions of the law and royal justice that were consistent with the broader legal thought and action of slaves that this dissertation has discussed up to this point.

¹ ANTT, Chancelaria de Ordem de Cristo, Chancelaria Antiga, Liv. 292, 229v.

One of the most consistent features of slavery throughout the Americas was the wielding of sale and separation by slave owners as an expression of mastery. Historians of slavery are familiar with the vivid accounts of slaves and ex-slaves in the United States who felt what former slave Tom Jones called “the constant dread” of sale and separation to plantation regions in the lower south.² Such slaves were not only forcibly transported through the routes of the internal slave trade, but they were also agonizingly separated from kin and community to regions where the treatment and punishment of slaves was believed to be distinctly cruel.³

The “constant dread” felt by Tom Jones and many more in the US South had its counterpart throughout the Americas.⁴ In Brazil, enslaved Africans and their descendants feared sale, or as we will see, donation “para fora da terra.” This phrase, some variety of which is found in nearly all descriptions of sale and banishment, roughly translates to “away from the land.” The phrase signifies a physical dislocation and uprooting from a delineated geography and sense of place. In exploring the three cases described below, this chapter highlights the similar and divergent ways that the chattel principle—the notion that “any slave’s identity might be disrupted as easily as a price could be set and a piece of paper passed from one hand to another”—shaped the lived realities of enslaved people in colonial Brazil.⁵

² Tom Jones, *Experience and Personal Narrative of Uncle Tom Jones, Who Was for Forty Years a Slave: Also the Surprising Adventures of Wild Tom, of the Island Retreat, a Fugitive Negro from South Carolina* (Boston: H.B. Skinner, 1855), 24. Quoted in Emily West, “Surviving Separation: Cross-Plantation Marriages and the Slave Trade in Antebellum South Carolina,” *Journal of Family History* 24, no. 2 (1999), 221.

³ Former slave and WPA respondent William Oliver, for instance, recalled that, “The cruelest treatment I know of in the United States and all the other states was done in the southwestern states... They tell me when your Master and Missus in this country want to make you do your task, they threaten to sell you to Texas.” Quoted in West, “Surviving Separation,” 221.

⁴ Walter Johnson (ed.), *The Chattel Principle: Internal Slave Trades in the Americas* (New Haven: Yale University Press, 2004).

⁵ Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge: Harvard University Press, 1999), 19.

In the broader history of sale, separation, and banishment in the Americas, what distinguished Brazil and the Portuguese Empire was the interwoven circuits of convict exile and the routes of the trans-Atlantic and internal slave trades; all enabled the intense circulation of enslaved people across space.⁶ It is not coincidental that the places where enslaved people were remitted by their masters for punishment or crimes were embedded in the routes of exile and/or the slave trade. For instance, the far northern Amazonian captaincies of Maranhão and Pará depended simultaneously on the importation of exiled convicts for colonization and were always in high demand of slaves. Thus, in the geographical imagination of slaves in Portugal, no place provoked more dread and fear than sale across the Atlantic Ocean to those captaincies, which developed unfavorable reputations over time.⁷ The cases of exile and banishment to the far southern captaincy of Rio Grande do Sul and Luanda, Angola reveal how individual slave owners tapped into existing networks of trade and criminal punishment to express their mastery in spatial terms.

In using the terms exile and banishment, I am referencing both the early modern institution of criminal reform, and the ways in which enslaved people described themselves as exiles and victims of *sevícias*.⁸ Exile is an incredibly multivalent and fluid term that has been used to describe a wide range of human experience resulting from physical displacement (typically from one's

⁶ On the centrality of exile as an institution in the South Atlantic world, see Roquinaldo Ferreira, *Cross-Cultural Exchange in the Atlantic World: Angola and Brazil during the Era of the Slave Trade* (Cambridge: Cambridge University Press, 2012). On the circulation of slaves in the Portuguese Atlantic see, Renato Pinto Venancio, *Cativos do Reino: A circulação do escravos entre Portugal e Brasil, séculos 18 e 19* (São Paulo: Alameda Casa Editorial, 2012).

⁷ Didier Lahan, "Eles vão, eles vêm: escravos e libertos negros entre Lisboa e o Grão Pará e Maranhão (séc. XVII-XIX)," *Revista Estudos Amazônicos* 6, no. 1 (2011), 70-99.

⁸ Sites of exile within the Atlantic world included the far northern captaincy of Maranhão, the far southern captaincy of Rio Grande do Sul, and the West Central African colony and slave port of Angola. Not coincidentally, conflicts resulting from freedom struggles saw people of African descent banished to these very locales throughout the Atlantic world. Timothy J. Coates, *Convicts and Orphans: Forced and State-Sponsored Colonizers in the Portuguese Empire* (Stanford: Stanford University Press, 2001). On exile in Angola, see Selma Pantoja, "Inquisição, degredo e mestiçagem em Angola no século XVIII," *Revista Lusófona de Ciência das Religiões* 5 (2004), 117-136.

homeland), social alienation, political persecution by authoritarian and fascist regimes, and national loss.⁹ For the study of pre-colonial Africa and Atlantic slavery, the notion of exile as displacement from one's homeland has been especially useful as a metaphor and framing device for conceiving of the effects of the slave trade, the creation and sustenance of the African diaspora, and the conceptualization of the slave more generally.¹⁰ It is not my intention to frame Brazil and Portugal as the homelands for those who invoked or experienced the kinds of exile described below. But more to the point, the exile and banishment described by enslaved people below more often expressed an uprootedness from kin and community developed outside of Africa, a fear of unknown regions, and a concern for what Antonio Francisco Granjeiro called a "perpetual slavery." What is evident is that the early modern Portuguese system of exile—that is, "having one's status degraded by a limitation placed on movement, labor, or speech"¹¹—was one of the primary reference points to describe the forced and coerced displacement of enslaved individuals as punishment. *Degredo*, *desterrar*, *mandar para fora da terra*, *enviar para bairro fora*, and *exterminar* all crop up as part of the shared vocabulary of enslaved people, judges, slave owners, and the crown to describe the forced movement of slaves throughout the Atlantic world. The other reference point was *sevícias*, the term used to describe cruel treatment and punishment. The deployment of *degredo* and *sevícias* to describe the violation of customary rights to manumission, the separation of conjugal spouses, the ability to protect one's body from harm, and the refusal to

⁹ André Aciman, ed., *Letters of Transit: Reflection on Exile, Identity, Language, and Loss* (New York: The New Press, 1999); Sophia McClennen, *The Dialectics of Exile: Nation, Time, Language, and Space in Hispanic Literatures* (West Lafayette: Purdue University Press, 2004), 1-3.

¹⁰ Nathan Riley Carpenter and Benjamin N. Lawrence, "Introduction: Reconstructing the Archive of Africans in Exile," in *Africans in Exile: Mobility, Law, and Identity*, eds. Nathan Riley Carpenter and Benjamin N. Lawrence (Bloomington: Indiana University Press, 2018). Saidiya Hartman offers the following reflection on the defining the slave: "The most universal definition of the slave is a stranger. Torn from kin and community, exiled from one's country, dishonored and violated, the slave defines the position of the outside." Saidiya Hartman, *Lose Your Mother: A Journey Along the Atlantic Slave Route* (New York: Farrar, Straus and Giroux, 2007), 5. Also see, Sylviane A. Diouf, *Slavery's Exiles: The Story of the American Maroons* (New York: New York University Press, 2014).

¹¹ Coates, *Convicts and Orphans*, 22.

acknowledge one's former freedom is one of the shared features across the stories of Antonio Francisco Granjeiro, Joana Correia, and Boaventura.

If exile, banishment, and separation from family provoked “constant dread” throughout the Americas, it nevertheless engendered a wide range of creative responses and refusals. In the context of Brazil, enslaved people drew on their legal consciousness to wedge appeals between the rights of slave owners and the sovereignty of the crown over its vassals and territories. One of the ways they did this, not only in Brazil but throughout the Americas, was through the invocation of conjugal rights and marriage strategies to avoid separation.¹² For both Boaventura and Antonio Francisco Granjeiro, their references to spousal separation signaled to judge and monarch a violation of their limited rights as slaves and Christians. What is distinct about Brazil and the Portuguese Atlantic, however, is how enslaved people repurposed the chattel principle to create avenues for their legal freedom through self-purchase. Except for the unique circumstances of Boaventura, the cases below show how invoking one's market value and then offering to pay that for freedom was one resolution to a conflict between slave and master. The results varied—a reminder of how contingent legal forums could be—but it was indicative of the creative strategies deployed by enslaved people, narrated in further detail below.

Exile as Perpetual Slavery

Here, I explore the life of Antonio Francisco Granjeiro, whose trans-Atlantic struggles for legal freedom and against exile plotted across three continents and mobilized selective strategies to trouble what historian Rebecca Scott called “the divided sovereignty underlying planter and

¹² West, “Surviving Separation.”; Cheryll Ann Cody, “Sale and Separation: Four Crises for Enslaved Women on the Ball Plantations, 1764-1854,” in *Working Toward Freedom: Slave Society and Domestic Economy in the American South*, ed. Larry E. Hudson (Rochester: University of Rochester Press, 1994).

state rule.”¹³ In the late eighteenth century, after pursuing legal channels to compel the conferral of his manumission, Granjeiro was exiled to the *Santa Casa de Misericórdia* (Holy House of Mercy) in Angola with the strict instruction from his master that he never be freed or allowed to return to Brazil. Between 1797, when he was first banished from Rio de Janeiro, and 1809, Granjeiro moved throughout the Atlantic world, sometimes as a slave, sometimes as a freed person, challenging the violence that exile inflicted. The documents he generated, assembled, and preserved afford a window into his intellectual understanding of the entanglements of slavery, manumission, and the law, and his ability to imaginatively express his legal thought across different forums.

In charting Granjeiro’s resistance to what he called a “perpetual slavery” and a “perpetual exile,” I analyze how he confronted the double subjection of slavery and exile to pursue the legal freedom he once proclaimed “was desired by all those considered captives.”¹⁴ Rematerializing his efforts over the course of one decade, I show that Granjeiro’s story highlights much more than enslaved people’s agency to engage with the Portuguese Empire’s Atlantic institutions and representatives—he expressed and acted on a legal conceptualization of freedom that countered the hegemony and supremacy of slave owners’ rights to property.

Granjeiro’s banishment was neither a criminal exile, as was common in the Portuguese South Atlantic, nor was it a punishment set by the Inquisition. It was, in fact, an exile imposed by his master as retribution, executed under the guise of “donation,” and which prohibited any possibility of freedom. Exile through donation allowed slave owners to remit troublesome slaves

¹³ Rebecca Scott, “Slavery and the Law in Atlantic Perspective: Jurisdiction, Jurisprudence, and Justice,” *Law and History Review* 29, no. 4 (2011), 923. My narrative of Granjeiro’s exile is reconstructed from three petitions he generated at the turn of the eighteenth century, and which are preserved in the National Archives of Rio de Janeiro and the Archives of the Overseas Council in Lisbon. See, ANRJ, SEB, cód. 67, vol. 23. Hereafter “1798 Granjeiro Petition”; AHU-Rio de Janeiro, cx. 226, doc. 15492. Hereafter “1805 Granjeiro Petition”; and AHU-Angola, cx 121, doc. 75. Hereafter “1809 Granjeiro Petition.”

¹⁴ Petition to Chancellor of Relação do Rio de Janeiro, 1800. 1805 Granjeiro Petition. Annex, Document 5.

to distant regions and to impose explicit restrictions over the mobility and freedom of their former slaves.¹⁵ Recognizing that enslaved people seized legal forums to limit their masters' authority, slave owners employed the donation to elude accusations of cruelty against them.¹⁶ Exile through donation thus rendered enslaved people vulnerable to the contingencies and precarities of exile, while preserving for slave owners degrees of uninterrupted mastery over their property from afar. Degrees of mastery were preserved because distinct conditions could be imposed on the donation, which not only structured how the donated property could be used, but also reserved the right of revocation with the donator if those conditions were not met. In fact, this same logic governed manumission, which, as earlier chapters have shown, was conceived legally as a donation.

In their donation of enslaved people to *Santa Casas*, slave owners placed stringent restrictions on their legal freedom and mobility. In 1715, for example, a Mina woman named Antônia was led from Minas Gerais to Rio de Janeiro, where she was donated to the *Santa Casa* under the explicit condition that “she may never for any reason be *freed*, sold, or transferred to another person.” If anyone “violated these conditions [the donator] and his heirs may reclaim that slave as theirs.”¹⁷ Similarly, in 1764, Rio de Janeiro’s viceroy remitted six exiles to Angola for crimes they committed. Before closing his letter to Angola’s governor, he noted that he was also sending “Francisco, pardo slave of Dona Teresa Joaquina, who gives him to the *Misericórdia* with the condition that he never returns to [Rio de Janeiro].”¹⁸ In 1799, a merchant based in Angola donated his slave Maurício to the *Santa Casa* in Rio de Janeiro under the condition that he “may

¹⁵ Silvia Hunold Lara first cited the donation of slaves as punishment in *Campos da violência: escravos e senhores na capitania do Rio de Janeiro, 1750-1808* (Rio de Janeiro: Paz e Terra, 1988), 261.

¹⁶ Here, the case of Angelica Maria, a *parda liberta*, is instructive. She petitioned Rio judge local courts to prevent the sale of her husband to Rio Grande do Sul. Instead, she convinced the judge to allow her to indemnify her husband’s master for his freedom. Mary Karasch, *Slave Life in Rio de Janeiro* (Princeton: Princeton University Press, 1987), 340.

¹⁷ Ubaldo Soares, *A escravatura na misericórdia: subsídios* (Rio de Janeiro: Fundação Romão de Matos Duarte, 1958), 40. Emphasis is my own.

¹⁸ ANRJ, SEB, Cód. 70, Vol. 2.

never be a *liberto*.”¹⁹ Indeed, Antonio Francisco Granjeiro’s master was known to exile his slaves to the Santa Casa in Luanda. In a later petition, Granjeiro said that up to seven individuals from the same estate were remitted to the *Santa Casa* in Luanda as punishment for seeking their freedom. In 1796, he donated two married slaves to the Santa Casa “until they die,” with the explicit stipulation that they never receive their freedom.²⁰ Indeed, even conflicts among family members resulted in banishment to Angola, as was the case for Ignácio. In the mid-eighteenth century, Ignácio was banished to Angola by his father, a former slave from the Mina Coast, for trying to poison him.²¹

Among those subjected to exile through donation was Antonio Francisco Granjeiro, an enslaved tailor who lived with his family in the city of Campos dos Goytacazes, located in the captaincy of Rio de Janeiro, in the final decades of the eighteenth century. They lived on a rural estate once belonging to the Jesuits before their expulsion from Brazil in 1759, but which came under the possession of Joaquim Vicente dos Reis in 1781.²² Years later, Granjeiro recalled that by 1797 he “could no longer suffer the violent treatment of his master...” and “with his wife during the free hours of the day and night worked diligently, so that they came to acquire the necessary money for his redemption.” Vicente dos Reis rejected Granjeiro’s offer for manumission. A free *pardo* tailor who knew Granjeiro observed that after Vicente dos Reis denied his offer for self-purchase, Granjeiro sought out the assistance of “people of power and respect...to help free him.”²³

¹⁹ Soares, *A escravatura na misericórdia*, 43-44.

²⁰ The banishment had its greatest effect on Marta Soares, for the donation described her husband as a fugitive. Marta Soares was remitted to Angola, and if Siqueira was captured at any point, he would be sent directly to Angola. In effect, Vicente dos Reis knowingly separated them. “Doação de um escravo,” in *Subsídios para a história dos Campos dos Goytacazes* (Campos: Typ. de J. Alvarenga & Comp., 1900), 354-357.

²¹ James H. Sweet, Defying Social Death: The Multiple Configurations of African Slave Family in the Atlantic World,” *The William and Mary Quarterly* 79, no. 2 (2013), 270.

²² Mariana Gonçalves Guglielmo, “As múltiplas facetas do vassalo ‘mais rico e poderoso de Portugal no Brasil,’” (M.A. Thesis, Universidade Federal Fluminense, 2011).

²³ 1805 Granjeiro Petition.

Circumventing Vicente dos Reis, Granjeiro sought out individuals who were likely *procuradores*. This incensed his master, who resolved to send him to Angola as he had done with other supposedly subordinate slaves.

In late 1797, Granjeiro and his wife, who was also exiled to Angola, boarded a slaving ship destined for Luanda. The ship planned one stop in Salvador, Bahia before embarking across the Atlantic. When their ship docked in Salvador one last time before making its way to Angola, Granjeiro and his wife contemplated their options. They knew they were travelling to Angola, but the precise contents of the “enclosed letter” that accompanied them remained a mystery. Neither Granjeiro’s petitions nor colonial correspondence reveal precisely what happened in Salvador. Yet, Granjeiro acted on the shared belief among many slaves that legal freedom could be obtained by supplicating before the Portuguese crown in Lisbon. His wife remained in Bahia, and Granjeiro tapped into what was most likely a network of free and enslaved sailors who provided him safe and clandestine passage from Brazil to Portugal. As we have seen in chapter two, a small but significant number of enslaved men seized opportunities to flee Brazilian ports for Portugal with the belief that their arrival in the metropole’s free soil would set them free.

In Lisbon, Granjeiro petitioned Queen Maria I, likely with the assistance of the city’s Black Catholic brotherhoods, who maintained a practice of aiding sailors and fugitive slaves from Brazil, as well as intervening in the banishment of enslaved people from Portugal to Brazil.²⁴ His petition justified his *marronage* to Portugal as the only recourse available in order to pursue his freedom

²⁴ Cristina Nogueira da Silva and Keila Grinberg, “Soil Free from Slaves: Slave Law in Late Eighteenth- and Early Nineteenth-Century Portugal,” *Slavery and Abolition* 32, no. 3 (2011), 431-446. Between 1688 and 1689, for example, two Black Brotherhoods in Portugal petitioned for the privilege to purchase the freedom of enslaved people threatened with sale “outside of the kingdom” as punishment from their masters. “Alvará de 22 de fevereiro de 1688” and “Alvará de 13 de Agosto de 1689” in Silvia Hunold Lara, *Legislação sobre escravos africanos na América Portuguesa*, in *Nuevas Aportaciones a la Historia Jurídica de Iberoamerica*, ed. José Andrés-Gallego (Madrid: Fundación Histórica Tavera, 2000), 197. Similarly, in 1771, the Brotherhood of *Rosário dos Homens Pretos* in Lisbon brought a complaint against a local slave owner who sought to “exile and send outside of the kingdom” an enslaved woman named Joana. Didier Lahon, “Eles vão e eles vem,” 84, n. 64.

“through the means that your Majesty has wisely established.” Granjeiro raised the cruel physical punishment that he suffered in Rio de Janeiro from his master, as well as the imminent exile he faced in Angola, which violated the right he had to a “merciful captivity.” As was customary among enslaved people who supplicated for their freedom before crown or judge, he offered to pay the full sum of his market value to “freely live with his wife and children” in Rio de Janeiro.

For Granjeiro, fleeing Brazil for Portugal and petitioning the crown were compatible and indeed legitimate, rather than unlawful, actions to obtain his freedom and to prevent his exile from Brazil. The crown, his petition reinforced, supported the protection of slaves against excessively cruel and violent masters, and this included the recourse to banishment. The petition was successful. On April 20, 1798, Queen Maria issued a royal order to free Granjeiro, so long as he first paid for his freedom, and “notwithstanding any repugnance from his master.” The Queen also awarded Granjeiro and his wife a travel license to return unencumbered to Rio de Janeiro; however, he was unable to find his wife when he stopped in Salvador.

By late 1798, Granjeiro returned to Campos dos Goytacazes to search for his wife and to “enjoy his freedom.” He found his irate and now former master shocked to learn that he not only had returned, but was now legally free. Vicente dos Reis petitioned João VI, the son of Maria I, who now assumed the title of Prince Regent. His protestation encapsulated the sharp antagonism over dominion and sovereignty in a slave colony. Vicente dos Reis defended his decision to banish his slave to the Santa Casa, claiming that Granjeiro was disobedient, troublesome, and that keeping him risked inciting other slaves to seek their freedom. In April of 1799, João VI ordered the Chancellor of the *Relação do Rio de Janeiro* to examine the matter. If Vicente dos Reis’ claims were true, officials in Rio de Janeiro were to “exile the slave to Angola...and instruct the Governor of [Angola] that the liberto must remain there for his entire life and never be permitted to return to

Brazil.”²⁵ Simultaneously naming Granjeiro a slave, liberto, and exile, the order prompted his imprisonment for the next year as judicial authorities reviewed Vicente dos Reis’ claims.

In spite of the precarious conditions that Granjeiro endured during his imprisonment over the next year, he assembled his own counter-archive comprised of his petitions and other relevant materials. Behind this, as he explained to one judicial authority, was the belief that “no one should be punished and exiled without any evidence.”²⁶ Describing himself variously as a *pardo livre* and a *pardo forro*, Granjeiro requested formal explanations for the imprisonment that prevented him from “using the freedom he had acquired.” Keeping these requests, which yielded no identifiable reason for his imprisonment from any officials, documented the baseless nature of his confinement. He also procured evidence to illustrate the cruel treatment of his former master to his slaves, including a letter written by an ecclesiastical official chastising Vicente dos Reis for not providing proper religious services, like baptism and burial, to his slaves.²⁷ Like other litigants and petitioners embattled in conflicts over their freedom, Granjeiro called upon his community to testify on his behalf. Still unaware of the nature of his imprisonment, Granjeiro proactively sent a list of witnesses and questions to a judicial scribe in Campos dos Goytacazes who could pose the questions and record the answers. Their testimonies underscored that Vicente dos Reis’ decision to banish Granjeiro to the Santa Casa in Angola was known as an excessive and cruel punishment for seeking his freedom. Yet, by the end of 1800, Granjeiro’s exile to Angola seemed inevitable as the Chancellor of the *Relação do Rio de Janeiro*, not surprisingly, upheld the claims of Vicente dos Reis.

²⁵ ANRJ, SEB, Cód. 67, Vol. 24, and ANRJ, SEB, Cód. 70, Vol. 19, 63v.

²⁶ Petition of Antonio Francisco Granjeiro to Chancellor of Relação do Rio de Janeiro. 1805 Petition, Annex, Document 5.

²⁷ Letter of Francisco Rodrigues de Aguiar to Joaquim Vicente dos Reis, January 1, 1800. 1805 Petition, Annex, Document 11.

On December 2, 1800, Granjeiro was led aboard the *Nossa Senhora da Conceição e Passos*, a slaving vessel destined for Angola.²⁸ Over the next two months, Granjeiro was transported across the Atlantic, dispossessed of his belongings from his home, absent the company of his family, and carrying with him only the papers he collected during his imprisonment.²⁹ He arrived in Luanda on February 2, 1801, and was listed in the *Register of Exiles*—this despite the fact that he was technically a donation to the Santa Casa.³⁰ In Luanda, Granjeiro did not find his wife, who he later believed remained in Bahia.³¹

Within months of arriving in Angola, Granjeiro presented his own personal collection of documents gathered in Brazil and Portugal before a notary to have them recorded and preserved. These papers served as the evidentiary basis for a new petition to Prince João VI in early 1805, a remarkable, impassioned appeal that spans eleven pages; stages dialogues between Granjeiro and Vicente dos Reis, and Granjeiro and the Prince; and makes direct references to the now-notarized documents that he attached as an appendix.³² While his circumstances were unique in that he battled the double subjection of slavery and exile, Granjeiro’s belief in a customary right to manumission, protection from violence, and his self-fashioning as both slave and vassal resonated with the claims of other enslaved petitioners throughout the Atlantic who appealed to the Crown for their manumission.³³

The crux of his petition rested on two claims: that his exile was an act of excessive cruelty necessitating protection, and that their conflict ultimately threatened the sovereignty of the Prince

²⁸ Voyage 8419, “Nossa Senhora da Conceição e Senhor dos Passos,” Slave Voyages Database, <https://www.slavevoyages.org/voyages/m8aNAZYY>. The ship would return to Pernambuco with 509 African captives.

²⁹ 1805 Granjeiro Petition, Annex, Document 5.

³⁰ His entry recorded that he was to remain in Angola “for his entire life,” and repeated that he was never to be “sold, donated, or freed.” 1809 Granjeiro Petition.

³¹ 1809 Granjeiro Petition.

³² 1805 Granjeiro Petition.

³³ AJR Russell-Wood, “Acts of Grace.”

as much as it inflicted violence upon Granjeiro. The first claim bore the imprint of the well-documented claims-making among enslaved people in Brazil and Latin America to transform excessive punishment into the basis for freedom.³⁴ This was precisely what Granjeiro meant when in 1798, before Queen Maria, he lamented his exclusion from “the means that your Majesty has wisely established” to obtain his legal freedom. Rather than an exercise of Vicente dos Reis’ property rights, the donation of Granjeiro and his wife to Angola was cruel punishment.

If Granjeiro’s exile was an excessive punishment that necessitated royal protection, the petition maintained, it was not him alone who was injured by the act. The petition opened by claiming that “The supplicant feels not only the hostility against himself, but also the offense committed against the royal sovereignty of Your Majesty.” If Vicente dos Reis’ original claim was that Granjeiro deceived the crown by not disclosing that he was property of the Santa Casa, Granjeiro flipped the matter: arguing it was Vicente dos Reis who reveled in his power to deceive the crown. Granjeiro (re)staged Vicente dos Reis’ reaction upon learning that Queen Maria freed him:

Would it be possible that I, a man held in high regards and a master of more than two thousand slaves, could be affronted by one of them (the supplicant) [sic] who, protected by Your Majesty, may evade my vengeance and enjoy their freedom? No, I will not rest until you are reduced to slavery again.

Passages like these left one colonial official with the opinion that the petition was based in “wrongly applied doctrine,” yet it revealed much about the imaginaries of enslaved people like Granjeiro as they conceived of the limits of mastery, defined injustice against the sovereign, and then translated those sentiments into the form of petition. In invoking a direct connection between

³⁴ Two royal decrees in 1688 established the right of slaves to denounce their master for cruelty and excessive punishment. These were rescinded by royal decree in 1689, yet that made little difference as enslaved people continued the practice of invoking the 1688 decrees over the next two centuries. Lara, *Legislação sobre escravos Africanos*, 198-199.

slave and sovereign, a connection that Granjeiro articulated throughout the various appeals he made, he framed the import of the matter as more than a conflict between slave and master. In doing so, the petition pinned its hopes for freedom and return on the belief that an injustice to an enslaved vassal of the crown was equally an injustice to the crown. For Granjeiro, the figure of the monarch was more than a symbolic or distant figure. Granjeiro pleaded that João VI conduct a full investigation of the matter, “with the integrity and secrecy that justice and this case asks for.”

Although various imperial officials consulted the petition, it never moved forward, a reminder that such personal appeals presented both opportunity and impasse. Granjeiro generated at least one more appeal from Angola in 1809, a considerably restrained petition that supplicated for a pardon of his exile. From Rio de Janeiro, where the Portuguese Court now lived since 1808, imperial officials brought the matter before the Prince. João VI claimed to remember Granjeiro’s supplications from a decade earlier, but ultimately denied his appeal and offered no reason for the decision.³⁵ We do not know for sure, but it is plausible, if not probable, that Antonio Francisco Granjeiro lived the remainder of his life in Luanda.

Drawing on his accumulated knowledge of the legal landscapes that drew together the Portuguese Atlantic, Granjeiro revealed a familiarity with the entanglements of enslavement, mastery, freedom, the colonial state, and law that was constitutive of wider currents in the legal thought of Africans and their descendants in Brazil. Against the double subjection of enslavement and exile, and the additional precarity that engendered, Granjeiro levelled challenges in three continents and across different forums. His circumstances were unique, but like other enslaved people pursuing their legal freedom or challenging their banishment, he invoked royal justice and defined his own juridical standing in order to define the limits of where his master’s dominion

³⁵ AHU-Angola, Cód. 551, f. 7v and 93.

ended and his own rights to manumission began. By intentionally deploying and combining the two discourses of cruelty (*sevícias*) and sovereignty, *Granjeiro* exemplified how enslaved people creatively repurposed subjecthood in their struggles for legal freedom.

A Lamentable Exile

Joanna Correia was born in the “kingdom of Benguela” sometime in the early eighteenth century.³⁶ She lived enslaved in Rio de Janeiro, likely in the urban parish of Santa Rita.³⁷ In the early 1770s, she arrived at an agreement with her master, Antonio Correia, to purchase her freedom for 128\$000 réis. Before Correa paid this amount, however, she suddenly learned that their manumission agreement was null, and that her master had sold her to Francisco Lopes de Sousa, a local merchant and captain. Sousa purchased her for a sum well above her market value. To Correia, the reasons for this sudden change were unclear, but the move meant not only the breakdown of their agreement, but also the beginning of what her petitions described as “a lamentable exile.”

Francisco Lopes de Sousa offered her master a sum of 179\$200 réis, insisting that she be sold to him before she could be manumitted. Why was Sousa insistent on buying Joana Correia before she could receive her manumission? Antonio Correia only learned one critical fact after finally acquiescing to explicit threats: that Sousa wished to buy Joana Correia to re-sell her to “the southern parts,” namely Rio Grande do Sul. As she learned that her sale to Sousa was imminent, Correia acted on “the wise laws of Your Majesty,” depositing 179\$200 réis in a public coffer and initiating a lawsuit against both Antonio Correa and Francisco Lopes de Sousa in order to affirm

³⁶ My narrative of Joana Correia is based on documents in AHU-Rio de Janeiro cx. 98, doc. 8468. Included in this are five petitions, one royal order, and one parecer from the Chancellor of the *Relação do Rio de Janeiro*.

³⁷ Francisco Lopes de Sousa, the merchant who intervened in her manumission to purchase her, was a Captain of 7th Company of the 3rd Auxiliary in the parish of Santa Rita. AHU-Rio de Janeiro, cx. 96, doc. 8308.

her customary right to manumission. Correia's two-pronged decision to deposit the price of her sale and to sue her master reflects enslaved peoples' legal understanding of the manumission process. Depositing the money in a public coffer, Joana Correia added legitimacy to her claims to freedom with cash immediately available to indemnify her master (whether, before the law, that was Antonio Correia or Francisco Lopes de Sousa). It also protected the cash, ensuring that slave owners could not usurp it, especially in cases where sale to a distant territory was at stake.³⁸

Joanna Correia's legal suit has not survived. One critical detail of it, however, was recorded by the Chancellor of the *Relação do Rio de Janeiro*, who reviewed the suit at the order of the crown. Leveraging legal pressures against him, Joanna Correia pressed Antonio Correia, her original master, to sign a sworn statement that supported her denouncement of Francisco Lopes de Sousa. Antonio Correia first admitted to having promised Joana her freedom at the price of 128\$000 réis. What is more, Antonio Correia confessed to knowing that Sousa's intention was to re-sell Joana Correia to Rio Grande do Sul.³⁹ That Joana Correia secured a sworn statement from Antonio Correia imbued the case with a new urgency and significance for all parties involved. For Joana, she had presented before a judge a key piece of evidence that her sale to Sousa not only broke her manumission agreement, but also now presented the opportunity to cast the sale to Rio Grande do Sul as a *sevícia*. For Sousa, the sworn statement exposed his suspicious intentions.

Joana believed, as a petition many years later disclosed, that Francisco Lopes de Sousa feared she had learned sensitive information about disputes within his family. Her petition alleged Sousa "believed that she discovered the strategies that [he] pursued to destroy the life of his father-

³⁸ On the "depósito público" and its procedures, see AHU-Rio de Janeiro, cx. 137, doc. 10840. The depósito geral functioned as follows: "Em beneficio comum se permite, que qualquer pessoa possa depositar gratuitamente no cofre...os seus cabedais, para a maior segurança delles, sem que por isso haja de satisfazer o menor emolumento, ou sejam os ditos cabedais em dinheiro liquido, ou peças de ouro, prata, e pedras preciosas; estes depósitos, porem voluntários se lançaram unicamente no livro da caixa, debaixo da mesma escrituração com que ele deve ser dirigido."

³⁹ Parecer of Luis José Duarte Freire, August 27, 1776. Petition of Joana Correia.

in-law, which motivated him, as an enemy of religion and humanity, to seek vengeance against her.” Joanna Correia was not wrong. At the same time that her case was under deliberation in the city of Rio de Janeiro in the mid-1770s, Sousa’s father-in-law petitioned King José I claiming that Sousa “sought to end [*abreviar*] the life of the supplicant,” and requested a license to transport his other daughter to Lisbon for her protection.⁴⁰ Sousa’s conflict with his father-in-law may have also been linked to his well-known financial improprieties, for which a business associate from Lisbon took him to court in the 1770s as well.⁴¹ Joana Correia found herself at the center of a conflict, knowledge of which threatened her freedom and security in Rio de Janeiro.

Despite the sworn statement by her former master that Sousa sought to sell Joana Correia to Rio Grande do Sul, enslaved people like her were still vulnerable to the “many despotisms” of their masters, especially when private conflicts over manumission became public matters before court officials. Enslaved people who sued their master often asserted their preference to live in “depósito,” under the custody and protection of a third party, sometimes legal representatives, but most importantly, away from the reach of their masters. This is an overlooked but key part of the litigation process. Just as Joana Correia guarded her money in the depósito público, enslaved claimants also recognized the need to protect themselves, particularly in cases of sevícias. The depósito process often created new conflicts, depending on whether enslaved people were deposited in public institutions or whether allowed to remain in the custody of “neutral” third parties.⁴² Such was the case for Magdalena, an enslaved woman in Rio de Janeiro in the early nineteenth century, who pleaded with João VI to remain in the custody of a “pessoa idónea” rather

⁴⁰ AHU-Rio de Janeiro, cx. 100, doc. 8607.

⁴¹ AHU-Rio de Janeiro, cx. 101, doc. 8635 and AHU-Rio de Janeiro cx. 110, doc. 9173. Sousa’s partner, Gabriel Ferreira Couto, sued him and received successful sentences in both the *Relação do Rio de Janeiro* and the *Casa da Suplicação*, condemning Sousa to pay vast amounts of money. Sousa’s refusal to pay saw him imprisoned in Lisbon for 11-12 years.

⁴² Camillia Cowling, *Conceiving Freedom: Women of Color, Gender, and the Abolition of Slavery in Havana and Rio de Janeiro* (Chapel Hill: University of North Carolina Press) 62-63.

than in the depósito público. Magdalena and her procurador reasoned that the public depository, where all *bens movéis* (movable goods and personalty, under which slaves were categorized) were held, was corruptly run and did not provide the “honor, sufficiency, and generosity” that her preferred depository offered.⁴³ As such, enslaved litigants like Magdalena and others may have used the depósito process to refuse categorization and treatment as *bens movéis*. What is more, *sevícias* could result from enslaved peoples’ litigiousness. Such was the case for Joana, who not only deposited her money in the city’s public depository, but “also deposited herself to resist [Sousa’s] *sevícias* and cruelties.”⁴⁴

The precise details surrounding what happened next are unclear, but what is clear is that as litigation was pending in Rio’s courts against Francisco Lopes de Sousa, he nevertheless apprehended Joana Correia. Perhaps hoping to strike a deal with Sousa, one of Correia’s petitions alleged that, “The supplicant went to the house of the supplicate, and he severely mistreated her, and placed her in iron cuffs, and transported her to Rio Grande, with orders that she die of hunger, thirst, and cold, and she was always naked and without shelter, with great scandal to humanity.” In one petition, Joana Correia was reportedly remitted to “the interior of Castela,” while a later account clarified with more precision that she was sent to “São Simão, seventy-eight leagues from Rio Grande, with orders that she die of hunger, thirst, and cold.” It was stated that her “lamentable exile” lasted sixteen months. Without copies of her legal suit, it is impossible to know the conditions she experienced in Rio Grande do Sul.

It was hardly arbitrary that Joana Correia was sold to Rio Grande do Sul.⁴⁵ In his travels through the south of Brazil in the early nineteenth century, the British merchant John Luccock

⁴³ BNRJ, C-530-16. Petition of Magdalena Crioula against Ignêz Felizarda.

⁴⁴ The parecer of Luis José Duarte Freire confirms that Joana Correia petitioned a judge to place herself in the custody of a third party.

⁴⁵ For a map of Rio Grande do Sul, see Appendix C.

made note of its reputation, remarking, “It was usual to transport to St. Pedro [Rio Grande] from other parts of Brazil, slaves that were incorrigible.”⁴⁶ As the southernmost captaincy of Brazil, and a strategic region for the defense of territorial boundaries, Rio Grande do Sul figured prominently as a key exporter of goods, a site of *degredo*, and a region that stimulated the growth of the internal slave trade from Rio de Janeiro.⁴⁷ Founded in 1737, Rio Grande do Sul emerged in the last quarter of the century as a major producer of dried meat, hides, and wheat, as well as a node in the contraband trade with the Spanish after the loss in 1777 of the *Colônia do Sacramento*.⁴⁸ Rio Grande do Sul’s gradual imbrication in the South Atlantic world, as well as a phase of economic stability in the final decades of the eighteenth century, generated a demand for enslaved labor. Slave traders in Rio de Janeiro, and to a lesser extent, Bahia, supplied slaves to the south. There were no direct slaving voyages between West Central Africa and Rio Grande do Sul during the period.

Although figures from the 1770s are unavailable, those between the 1780s and 1810s point towards the striking detail that trade to Rio Grande do Sul was not concentrated in the hands of a few relatively powerful merchants, but rather constituted by individual slave owners and small merchants who alone remitted enslaved people to the region. Between 1788 and 1802, the historian Gabriel Santos Berute identified a total of 3,294 slaves who were transported to Rio Grande do Sul in a total of 945 shipments (*envios*).⁴⁹ Half of these shipments (479) included the remittance

⁴⁶ John Luccock, *Notes on Rio de Janeiro, and the Southern Parts of Brazil; Taken During a Residence of Ten Years in that country, From 1808-1818* (London: Samuel Leigh, in the Strand, 1820), 201.

⁴⁷ Rudy Bauss, “Rio Grande do Sul in the Portuguese Empire: The Formative Years, 1777-1808,” *The Americas* 39, no. 4 (1983), 519-535; Aluísio Gomes Lessa, “Exílios Meridionais: O *Degredo* na Formação da Fronteira Sul da América Portuguesa (*Colônia do Sacramento*, Rio Grande de São Pedro e Ilha de Santa Catarina, 1680-1810),” (M.A. Thesis, Universidade Federal do Rio Grande do Sul, 2016).

⁴⁸ On the Platine conflict, see Dauril Alden, *Royal Government in Colonial Brazil* (Berkeley: University of California Press, 1968).

⁴⁹ Berute defines a shipment, or “*envio*,” as “o número de escravos transportados por um determinado consignatário, a data de emissão do documento, o nome do comerciante, o nome do fiador da transação, a origem e o destino da carga humana transportada e, com menos frequência, o nome do proprietário, o nome do barco e de seu mestre.”

of only one slave, whereas shipments of eleven to fifty slaves totaled 177 (18.7%). Berute finds that during this period, 651 merchants took part in the traffic to Rio Grande do Sul, of which 77.9% only participated in one shipment. In short, individual slave owners and merchants contributed to the slave trade to Rio Grande do Sul; they sold a few, sometimes just one slave to the region.⁵⁰ While arriving at reasonable conclusions about the motivation for such remittances is beyond the scope of this chapter, one cannot help but wonder to what extent these shipments of individual slaves were acts of punishment.

Just as enslaved persons in the United States feared their sale and the separation of their families, enslaved people in Brazil feared their sale to Rio Grande do Sul. In 1770, for example, an Angolan man named José petitioned Rio's viceroy hoping to block his sale "fora da terra." His petition was unsuccessful, and the Viceroy insisted that if he be sold "to those parts" it be in a territory not belonging to the Spanish, almost certainly implying his preference for Rio Grande do Sul.⁵¹ The same viceroy, the Marquês do Lavradio, may have thus been indifferent to Joana Correia's fears of being sold to *as partes do sul* some years later if he was aware of it. Other examples point towards similar instances of sale to Rio Grande do Sul as punishment and retribution. In the late eighteenth century, Anna Felizarda das Chagas, with the help of her brother-in-law, sold her slave, Rosa, to Rio Grande do Sul. With those profits, they purchased Catarina, recently arrived from Benguela, from the Valongo slave market.⁵² Similarly, Angelica Maria, a *parda liberta*, took one slave owner to court in 1823 in order to prevent the sale of her husband, Venancio, to Rio Grande do Sul.⁵³

Gabriel Santos Berute, "Dos escravos que partem para os portos do sul: características do tráfico negreiro do Rio Grande de São Pedro do Sul, c. 1790 – c. 1825," (M.A. Thesis, Universidade Federal do Rio Grande do Sul, 2006), 26.

⁵⁰ Berute, "Dos escravos que partem para os portos do sul," 125-136.

⁵¹ ANRJ, SEB, Cód. 70, Vol. 5, 81v and 101v.

⁵² ANRJ, PON, Livros de Registro Geral 17, 14v-15.

⁵³ Karasch, *Slave Life in Rio de Janeiro*, 340, n. 15.

Freed people also had cause for concern. They feared the pervasive and omnipresent threat of re-enslavement and sale to Rio Grande do Sul. In their petition to Prince Regent João VI in 1804, Maximiano Francisco Gomes, Isabel, and her daughter Ignácia, supplicated for the recognition of the freedom letters bestowed to them in their deceased master's will and testament. As they raised in their petition, it was common "to secretly transport slaves to Rio Grande do Sul, Montevideo, and other places in America from the said city of Rio de Janeiro..."⁵⁴ Royal legitimation of their freedom letters would offer at least some protection against re-enslavement. Authorities in the preceding decades complained of repeated kidnappings of both free and enslaved peoples from Rio de Janeiro to Rio Grande do Sul.⁵⁵ When Brazil abolished the trans-Atlantic slave trade in 1850, networks of slave catchers encroached the borderlands between Brazil, Argentina, and Uruguay. As Keila Grinberg has shown, the kidnapping of free people of African descent in these new slaving frontiers re-routed people of African descent, re-enslaved, through Rio Grande do Sul.⁵⁶

In short, the captaincy, which gained its significance in the second half of the eighteenth century, assumed a critical role in the broader geography of slaving and the slave trade in late-colonial Brazilian history. Few details of Joana Correia's time in Rio Grande are available, but the move was clearly one she feared since she introduced into court her former master's sworn statement of Sousa's intentions. Francisco Lopes de Sousa maintained close economic ties with the region, purportedly owning ships that travelled between Rio and Rio Grande do Sul, and shipping other quantities of goods to that region.

⁵⁴ AHU-Rio de Janeiro, cx. 223, doc. 15301.

⁵⁵ ANRJ, Polícia da Corte, Cód. 323, Vol. 8, 9-9v.

⁵⁶ Keila Grinberg, "The Two Enslavements of Rufina: Slavery and International Relations on the Southern Border of Nineteenth-Century Brazil," *Hispanic American Historical Review* 96, no. 2 (2016), 259-290. See also *As fronteiras de escravidão e da liberdade no sul da América*, ed. Keila Grinberg (Rio de Janeiro: 7 letras, 2013).

In her absence, Joana Correia's legal representatives continued to work on her behalf, crafting an intricate network of legal representatives to protest on her behalf between Rio de Janeiro and Lisbon. While the legal suit she brought forth in Rio de Janeiro remains lost, appeals to Lisbon's *Casa da Suplicação* provide information to help re-construct Joana Correia's legal battles against Francisco Lopes de Sousa. As the highest and ultimate appeals court, the court was the most important judicial institution in Portugal and its empire, described by the *Ordenações Filipinas* as "the greatest court of justice in our kingdom and in which cases of the utmost importance are determined and decided."⁵⁷ The Casa da Suplicação was organized in geographically and jurisdictionally concentric terms: it was first instance for the royal court, a second appeals court for civil and criminal matters in Lisbon, and ultimately the third and final appeals court for matters in the Atlantic islands and imperial territories. Cases brought before local courts in Brazil, therefore, were first appealed to either the *Relação da Bahia* (1609) or the *Relação do Rio de Janeiro* (1751). Litigants wishing to appeal a sentence (*acordão*) beyond this appellate level would therefore appeal in the final instance to the Casa da Suplicação, but only after receiving a special privilege dispensed by the crown to do so.⁵⁸

Litigants hoping to overturn unfavorable sentences in Lisbon's high appeals court needed legal representatives (*procurador bastante*) present in Portugal to handle matters on their behalf, adding a further obstacle to the appeals process for enslaved litigants. They may have come to rely upon established networks between local lawyers in Brazil and their counterparts working in Lisbon. Given the cooperation between Black Catholic brotherhoods in the South Atlantic, as shown in chapter two, it is reasonable to imagine they also played a hand in forging networks that

⁵⁷ "Do regedor da Casa da Suplicação," Liv. 1, Tit. I, in Cândido Mendes de Almeida, *Código Filipino ou Ordenações do Reino de Portugal* (Rio de Janeiro: Tipografia do Instituto Filomático, 1870).

⁵⁸ On a concise explanation of the structure and function of the Casa da Suplicação, see Nuno Camarinhas, "A Casa da Suplicação nos finais do Antigo Regime (1790-1810)," *Cadernos do Arquivo Municipal* 2 (2014), 223-241.

would elevate enslaved peoples' claims before the empire's highest courts. Enslaved people engaged in litigation for their freedom nevertheless enlisted legal assistance across the Atlantic Ocean in the metropole. Such was the case for João Soares, a preto forro in Rio de Janeiro, who solicited legal representatives in Lisbon to help initiate an appeal against a decision upheld by the *Relação do Rio de Janeiro* that denied the manumission of his wife, Maurícia da Gama.⁵⁹ Similarly, in order to protect the freedom granted and then upheld by lower courts, Maria do Sacramento of Pará stood before a notary on May 31, 1783 to declare as her procurador in Lisbon Francisco José da Costa Rego "and company." In Lisbon, Rego and his associates were given the power to petition "in the name of the [Maria do Sacramento] as if she was present," and to protect the freedom she was granted by lower courts.⁶⁰ One can imagine that in the case of Joana Correia, the additional burdens of banishment, and the ever-present threat of it, made the business of long-distance communication and the sharing of copied legal documents even more arduous.

By the time that procuradores in Lisbon generated the first petitions to elevate Joana Correia's civil suit to the Casa da Suplicação, it is unknown how long she had been in Rio Grande do Sul or whether she had returned to Rio de Janeiro. As news circulated that she had been kidnapped and sold to the south in violation of the deposit she resided in, a magistrate of the Relação do Rio de Janeiro, perhaps at the requests of her community or lawyer, ordered the return of Joana Correia to Rio de Janeiro to await a final decision in her suit.

Between Rio de Janeiro and Lisbon, Joana Correia's legal representatives shared correspondence, copies of court documents, and updates on the status of her return. With this evidentiary base, her procurador in Lisbon levelled a unique and ambitious appeal for shifting her

⁵⁹ AHU-Rio de Janeiro cx. 96, doc. 8280.

⁶⁰ AHU-Pará, cx. 93, doc. 7426. A copy of her *procuração bastante* is attached to the petition. For other examples of enslaved people appealing to the Casa da Suplicação, see AHU-Rio de Janeiro, cx. 126, doc. 10084; AHU-Bahia Eduardo de Castro e Almeida, cx. 87, doc. 17080. Emphasis added.

case to the empire's highest court. Transferring Correia's case to the Casa da Suplicação was not a matter of overturning an undesirable sentence, but rather of escaping "the despotism of the magistrates on that continent." Her first petition alleged that her rights had been violated because of the "friendship between the supplicate and those ministers." A second petition made an even stronger rebuke of the corruption and tyranny within Rio's legal system, even directly naming the long-serving ouvidor of the city: "but nothing was enough to prevent the Desembargador, Antonio Pinheiro Amado, friend of [Sousa], from attacking the supplicant's justice; against the spirit of the respectful laws of Your Majesty, acting on his lawless despotism which has so plagued the people [of that city]."⁶¹ These were powerful and risky accusations. But they were not entirely unfounded, as others in the period complained not only about Amado's unscrupulous legal practices, but also his failing health.⁶² In calling out the compromised position of Amado as a close friend of Sousa, who turned a blind eye on his decision to send Correia to Rio Grande do Sul, her petitions ultimately re-envisioned the jurisdiction of the appeals court. It was not only a legal circuit at which to overturn her sentence, but one that offered the "satisfaction of her rights," violated by the proximity of her contender with royal magistrates in the city of Rio de Janeiro.

In Lisbon, the first petition executed in Joana Correia's name appeared before imperial officials in September 1775, including members of the Overseas Council and the King's royal attorney (Procurador da Fazenda). Heeding the suggestion of the royal attorney, the Conselho Ultramarino responded on behalf of the king ordering the newly-appointed chancellor of the Relação do Rio de Janeiro to "report with your *parecer*, and finding the supplicant's complaints of violence and misdeed to be true, place the supplicant in the depósito she was in, and the price

⁶¹ Antonio Pinheiro Amado served as the Ouvidor of Rio de Janeiro from 1765-1782, an unusually long tenure in the position.

⁶² Alden, 433-434.

she offered before a judge, so she may use the established means that the law offers her.”⁶³ While the order disregarded the appeal for recourse to the Casa da Suplicação, it affirmed Joana Correia’s right to both reside in deposit during the remainder of her suit and her right to obtain her freedom through “the established means,” most likely a reference to the custom of self-purchase. When Luis José Duarte Freire arrived in Rio de Janeiro the following year, Joana Correia’s case was among the first he reported on.⁶⁴ Reviewing copies of her petitions to the Casa da Suplicação and her suit, he summarized his findings to the crown, reserving only a brief mention of Sousa’s decision to sell Joana Correia “para barra fora.” Freire disagreed that her case should ascend to the Casa da Suplicação, given that she was “restored to this city, and unrestrained to deal with her case.” Freire also disagreed that the case could ascend to the Casa da Suplicação out of concern for the reputation of royal magistrates in the area, whom he found “very just and vigilant in the administration of justice.” In short, his report to Lisbon defended the judicial circuit and its representatives that he now oversaw.

In the years following Freire’s report, it is unclear how the conflict unfolded on the ground in Rio. Freire reported that after her return to Rio de Janeiro, Joana Correia and her procurador forced Francisco Lopes de Sousa to sign a sworn statement promising to not treat her with *sevícias*. Although not a guarantee of protection, since Sousa earlier violated the *depósito*, the statement nevertheless enforced her case should Sousa try another kidnapping. Enslaved litigants customarily requested three days per week to work on their cases, spending the other days with their masters. Freire observed that she had been assigned the customary three days to work on her

⁶³ A copy of the order can be located in the ledgers of the Overseas Council in AHU-Códice 195, 241.

⁶⁴ Though it was the duty of the new chancellor to report on the matters raised in Joana’s petitions, he had only been appointed to the position one month before the royal order was executed, and he would not arrive in Rio de Janeiro until June of the following year, adding an additional lapse in time that Joana Correia would be forced to wait out. Luis José Duarte Freire, previously a *desembargador* of the Casa da Suplicação, was nominated chancellor of the *Relação do Rio de Janeiro* on August 7, 1775. AHU-Rio de Janeiro cx. 98, doc. 8455. He arrived in Rio de Janeiro after a delayed departure on July 1, 1776. AHU-Rio de Janeiro cx. 100, doc. 8575.

case; however, “she does not serve him, and walks free of his subjection.” Though he probably included this detail to discredit her, we can also glean that perhaps she refused entirely to act and work as if she was Sousa’s slave.

Two years passed until another (and final) petition in Lisbon was executed, which now sought a direct act of grace for manumission rather than solely a provision for appealing to the Casa da Suplicação. Clearly, communication between Joana’s legal representatives in Rio and Lisbon, as well as the exchange of knowledge and documents about the case, continued after the 1776 parecer of the chancellor. Equally impassioned as earlier ones, this petition indicated that Rio’s courts had yet to arrive at a decision on Joana Correia’s case and that “the crimes remain unpunished.” Her procurador indicated that he still had in his possession documents relating to the case, and that together with the chancellors’ parecer, these “demonstrate the justice of the suppliant, and the impiety of the supplicate.” The petition concluded by raising the stakes of Joana Correia’s case well-beyond its implications for slave litigants and their experience with royal justice: “may your Majesty remember to reprimand the excesses of the supplicate, so that the poor may live free from the wars of similar enemies of religion and humanity.” A response from the crown was registered in February of 1779, ordering the chancellor of the Relação to conclude the proceedings, and to “take special care that no harm is done to the suppliant, and that she live safely under my protection.” But no mention was made of granting manumission by royal grace. Instead, the matter was to be concluded and decided upon by a judge.⁶⁵

Joana Correia’s sixteen-month “lamentable exile” revealed the vulnerabilities engendered by southern expansion in the Rio Grande do Sul region at the end of the eighteenth century as slave owners viewed it as a site of banishment for unwanted, troublesome slaves. Certainly, not all those

⁶⁵ A copy of the order is located in AHU-Código 196, 96-96v.

sold by individual slave owners had the access or opportunity to litigate against what slave owners saw as the exercise of their rights in property. Nevertheless, Joana Correia's experiences offer insight into some of the ways in which the procedural matters of litigation (*correr pleito*) could be turned into mechanisms of protection against displacement, and to advance claims for self-purchase.

In this regard, what is striking about the paper trail generated by Joana Correia's trans-Atlantic network of legal representatives was the adherence not only to her summary return to Rio de Janeiro from Rio Grande do Sul, but also the clear commitment to her residence in "deposit." If we recognize that the lavish language employed by a procurador invoking despotism and tyranny belonged to a procurador, we cannot overlook the consistent appeal to deposit across claims in Rio and Lisbon—this was Joana Correia's argument. In her case, the appeals to be placed "in deposit" functioned successfully before her sale to Rio Grande do Sul and again after her return because, like Antonio Francisco Granjeiro, banishment was deployed under the category of *sevícias*. To appeal for placement in deposit, whether one's self or their money, was to deploy a legal strategy that at once repurposed the logic of the slave as property in order to protect one's self against the manifest forms of *sevícias*, including banishment. That slaves acquired customary access to public coffers to deposit funds for their own manumission further reveals how enslaved people maneuvered the legal fact that *pécúlios* were strictly and theoretically the property of the master.⁶⁶

Joana Correia's appeals to the Casa da Suplicação, executed on her behalf by a procurador in Lisbon, also reveal the creation of a small trans-Atlantic network mobilized to elevate claims across different territorial jurisdictions. How did enslaved people and their representatives do that? There are many possible explanations. For instance, one might posit that Joana Correia coordinated

⁶⁶ Malheiro, *A escravidão no Brasil*, vol. I, 62-64. This was true until 1871, when the passage of the Lei do Rio Branco legally entitled enslaved persons to ownership of their *pecúlio*.

with Francisco Lopes de Sousa's father-in-law, whose petition to the King complaining of Sousa was written in a strikingly similar handwriting as Correia's petitions and employed noticeably similar language and phrases to describe Sousa. Those who had support from Catholic Brotherhoods may have also tapped into the resources they provided in both Brazil and Lisbon. However such a network was established between Rio and Lisbon, key correspondence, documents, and news were shared across the Atlantic. A key argument presented in Lisbon, for example, was that Joana Correia's litigation was inhibited by close connections between Sousa and other magistrates, something other contemporary observers remarked upon when they considered Rio's judicial system.⁶⁷ This allowed her procurador to make the ambitious, though ultimately unsuccessful, argument that her case could ascend to a higher jurisdiction after the failings of a lower one. It would be misguided to frame this only as the invention of a distant procurador; it was part of a process of communication and sharing of documents. Similarly, Correia's Lisbon procurador was well aware of the depósito she resided in, as well as her money. In the second petition, for instance, the procurador continued to appeal for quick action to be taken, requesting the return of Joana Correia "to her former depositary at the cost of the supplicate." In short, appeals were levelled on her behalf in both Rio de Janeiro and Portugal, an unusual achievement despite both the distance and the precarious circumstances in which she found herself.

If Joana Correia did eventually obtain her legal freedom, it may have been under even more unusual circumstances than those that spanned nearly one decade in legal struggle against banishment to southern Brazil. In 1780, Francisco Lopes de Sousa imperial administrators ordered

⁶⁷ In a lengthy report to his successor, the Viceroy Marquês do Lavradio complained that the Ouvidor Antonio Pinheiro Amado, named in Correia's petitions, carried out his duties in suspect and corrupt ways. As Dauril Alden explains: "Of considerably more moment was his charge that the ouvidor frequently employed legal assistants to do his work for him with the result that 'many times' the same attorney who serve in vice the ouvidor in passing sentence was also employed by the defendant." Alden, *Royal Government in Brazil*, 433-434.

his arrest and transported him from Rio de Janeiro to the Limoeiro prison in Lisbon. He was charged with defrauding his business partner, who resided in Portugal, and owed a debt of upwards of twenty-five million réis. After a brief spell in which he escaped the prison and sought refuge in Brazil—his aggrieved business partner suspected he was heading for, of all places, Rio Grande do Sul—colonial authorities recaptured Sousa and returned him to Lisbon. He spent the next twelve years in Lisbon’s prison.⁶⁸

Exile by Re-enslavement

Perhaps one of the rarer and more extraordinary claims to freedom was made by Boaventura, a sailor from Mozambique, who declared that he was freed because he killed twelve Frenchmen in the Indian Ocean.⁶⁹ Boaventura was one of the many enslaved African seamen employed as crewmembers and translators on Portuguese slaving vessels throughout the South Atlantic and Indian Ocean world.⁷⁰ Towards the end of the eighteenth century, slaving merchants in Rio de Janeiro began to look beyond Angola to Mozambique as an alternative source of African slaves to supply the growing labor demand in southern Brazil. This tightened connections between the two Portuguese colonies that would continue well into the nineteenth century. However, slaving activity along the east African coast had carried on for at least two centuries before, and in particular, the Portuguese had already long established trading relations with the French in the Indian Ocean. This was until the breakdown of political relations in the 1790s. Increases in French

⁶⁸ AHU-Rio de Janeiro, cx. 125, doc. 10049; AHU-Rio de Janeiro cx. 201, doc. 14215.

⁶⁹ My narrative and analysis of Boaventura, his struggles for freedom, and his challenges to banishment in Rio Grande do Sul, are based in the following collection of documents: BNRJ, C 017-003. Contained in this citation are 9 numbered documents. Hereafter “Boaventura Petitions.” The document numbers I cite below correspond with the numbering imposed on the petitions by the Biblioteca Nacional.

⁷⁰ On African sailors and their roles aboard slaving vessels, see Mariana P. Candido, “Different Slave Journeys: Enslaved African Seamen on Board of Portuguese Ships, c. 1760-1820s,” *Slavery and Abolition* 31, no. 3 (2010), 395-409; Jaime Rodrigues, “Escravos, senhores e vida marítima no Atlântico: Portugal, África e América portuguesa, c. 1760- c. 1825,” *Almanack Guarulhos* 5 (2013), 145-177.

privateering and political and economic animosities between the two empires formed the context in which Boaventura worked, became free, and ultimately was re-enslaved.⁷¹

Boaventura worked on the *Nossa Senhora do Rosário e Santo Antônio de Almas*, or as it was more commonly known to its crew, the *Rosarinho*. The vessel and its slaves were owned by Bernardo Lourenço Viana, a wealthy slaving merchant established in the Valongo slave market in Rio de Janeiro. Viana was one of the first Rio-based merchants to invest in a slaving voyage between Rio de Janeiro and Mozambique. In 1797, the *Rosarinho*, with Boaventura aboard, was dispatched to Mozambique, where it bought East Africans in the port of Lourenço Marques (Maputo) for the return to Rio de Janeiro. Before the *Rosarinho* could round the Cape of Good Hope, French privateers aboard the appropriately-named ship the *Embuscade*, or ambush, ambushed it. The French privateers took the *Rosarinho*, its crew, and its human cargo stored below the deck into custody and rerouted the ship to Mauritius. Along that route, the *Embuscade* also attacked three other Portuguese vessels and set fire to another. Now a prisoner of the French, Boaventura, his fellow enslaved crewmembers, and the *Rosarinho*'s captain resolved to fight back against their captors. As one account of the incident published in Lisbon described, "In effect, they attacked the French, killing twelve men, wounding many others, and the captain returned to the port of Mozambique with the imprisoned corsair."⁷²

⁷¹ Paul Mazery, "Mozambique and the Napoleonic Wars: A Study of Documentation in the Arquivo Histórico Ultramarino," *Stvdia* 37 (1973), 387-400; José Capela, *O tráfico de escravos nos portos de Moçambique, 1733-1904* (Porto: Edições Afrontamento, 2002); José Capela, "Slave Trade Networks in Eighteenth-Century Mozambique," in *Networks and Trans-Cultural Exchange: Slave Trading in the South Atlantic, 1590-1867*, eds. David Richardson and Filipa Ribeiro da Silva (Leiden: Brill, 2015); Patrick Harries, "Mozambique Island, Cape Town and the Organisation of the Slave Trade in the South-West Indian Ocean, c. 1797-1807," *Journal of Southern African Studies* 42, no. 3 (2016), 409-427. For a useful resource on merchants, captains, and other agents of the slave trade in Mozambique, see *Dicionário de Negreiros em Moçambique, 1750-1897* (Porto: Centro de Estudos Africanos da Universidade do Porto, 2007).

⁷² *Supplemento à Gazeta de Lisboa*, Number 34, August 24, 1797. A fictionalized version of the account with abolitionist undertones was published in the mid-nineteenth century. "Os Sonhos," *Quadros Navaes ou Collecção dos Folhetins Marítimos do Patriota... Tomo I* (Lisboa: Imprensa Nacional, 1861).

For his actions in revolting against the French privateers aboard the *Embuscade*, and for returning to Portuguese territory with that same ship already loaded with goods otherwise heading for Mauritius, Mozambique's governor granted Boaventura and nine other enslaved crewmembers their letters of freedom. Behind the governor Diogo de Sousa's decision to manumit Boaventura and others was one of the rarer circumstances in which manumission was granted that dated back to antiquity: exceptional service to the state. The question of whether, how, and when the state could intervene in the relationship between master and slave to grant liberty forms a central tension in the longer history of Portuguese Atlantic (and Indian Ocean) slavery.⁷³ As a matter of custom, and sometimes law, Portugal adopted and adapted the Roman practice of manumitting slaves who offered information on or service against treason or corruption within society.⁷⁴ In the fourteenth century, the *Siete Partidas* established the instances in which "a slave becomes free on account of some good action which he performed, although his master may be unwilling." This included cases in which "[the slave] reveals any treason against the King or the kingdom."⁷⁵

As Portugal (and later Brazil) expanded its territorial claims throughout the South Atlantic, it adapted the principle of state-sanctioned manumission to include exceptional military service against national and imperial rivals.⁷⁶ Most notably, South Atlantic war against the Dutch in the Brazilian northeast and in Angola (1630-1645) prompted the recruitment of free and enslaved persons of African descent to serve in black regiments. Among those recruited was Henrique Dias, the so-called "Governador dos Negros," whose contributions to the defense of Brazil earned him

⁷³ Manuela Carneiro da Cunha, "Silences of the Law: Customary Law and Positive Law on the Manumission of Slaves in 19th Century Brazil," *History and Anthropology* 1, no. 2 (1985), 427-433.

⁷⁴ See Tristan Husby, "Recognizing Freedom: Manumission in the Roman Republic," (Ph.D. Diss., City University of New York, 2017), 93-104.

⁷⁵ Tit. XXII, Law VIII, in *Las Siete Partidas: Family, Commerce, and the Sea*, ed. Robert I. Burns, S. J. (Philadelphia: University of Pennsylvania Press, 2001), 982.

⁷⁶ For a comprehensive overview of this in Brazil, see Hendrik Kraay, "Arming Slaves in Brazil from the Seventeenth Century to the Nineteenth Century," in *Arming Slaves: From Classical Times to the Modern Age*, eds. Christopher Leslie Brown and Philip D. Morgan (New Haven: Yale University Press, 2006).

the title of minor nobility from the crown.⁷⁷ For some enslaved men, they may have joined black regiments because of promises made by military leaders like João Fernandes Vieira and Antônio Cavalcanti Capibaribe in 1645 that anyone “who does his duty in defense of divine liberty will be freed and paid.”⁷⁸ But the reward of manumission may have also resulted from calls from below among those who actually fought. This may explain the motivation behind Henrique Dias’ 1657 petition to the Portuguese crown, delivered personally in Lisbon, in which he called for the emancipation of enslaved military men who contributed to the Portuguese victory in Recife in 1654, expelling the Dutch once and for all. The queen affirmed his appeal, instructing officials to assess who participated in the defeat of the Dutch to free enslaved military troops.⁷⁹

By the time Boaventura and his shipmates overtook their French prisoners aboard the *Embuscade* and safely returned that vessel to Mozambique, there was an established, albeit exceptional, precedent of rewarding enslaved individuals who performed outstanding service to the crown. In fact, the crew of the *Rosarinho* gained much more than their freedom, a sign of just how significant their actions were. As Diogo de Sousa, Mozambique’s governor, recalled over a decade later, he granted their,

judicial letter of freedom when I was the Governor of Mozambique for overtaking the French vessel *Embuscade*, of which they were prisoners, [and] bringing to [Mozambique] important Portuguese effects that were taken aboard, the prices of which were assessed and divided amongst them and two white officials.⁸⁰

Did Boaventura and others act in the belief they would be rewarded with manumission and money?

The suggestion is not altogether exaggerated, given the ways enslaved sailors’ amassed knowledge

⁷⁷ Hebe Mattos, “‘Black Troops’ and Hierarchies of Color in the Portuguese Atlantic World: The Case of Henrique Dias and His Black Regiment,” *Luso-Brazilian Review* 45, no. 1 (2008), 6-29.

⁷⁸ Cited and quoted in *ibid.*, 155.

⁷⁹ Mattos, 11; Kraay, 155.

⁸⁰ Boaventura Petitions, Document 3.

of imperial laws and traditions surrounding maritime activities. They certainly would have been aware of the dangers posed by French privateers, possibly using that as a bargaining chip for their actions in protecting Portuguese interests.

Knowledge of the reward given to Boaventura and his enslaved shipmates may have inspired other enslaved sailors to undertake similar efforts against French privateers. In 1799, French privateers ambushed another Portuguese vessel, the *Minerva*, traveling along the Benguelan coast. Pedro Caetano, Roque, José Ferreira, João, Miguel Joaquim, José, and José de Cambonda, the ships' enslaved crew, fought back and took control of the French corsair *L'éclair*, and sailed it back to Angola. In Luanda, a judge awarded them not only their freedom, but also one-fifth of the profits from the ship sold at a public auction. Angola's governor expressed concerns about the size of this reward, and the crown responded by setting a limit on financial rewards. As likely happened in Mozambique three years earlier, the crown also ordered the owners of the enslaved sailors to be indemnified for their loss. Coincidentally, the crew of the *Minerva* belonged to Bernardo Lourenço Viana, who also owned the crew of the *Rosarinho*, including Boaventura.

Boaventura's freedom was short-lived. Not long after he obtained his freedom by a special order from Mozambique's governor, he was re-enslaved by Bernardo Lourenço Viana. In 1798, Boaventura reappeared in Rio de Janeiro's Valongo slave market, where Viana sold him⁸¹. It is not altogether clear how Boaventura was re-enslaved and transported to Rio de Janeiro. He likely arrived aboard the *Esperança*, which anchored in Rio's bay on May 6, 1798 with 491 Africans who originally embarked in Mozambique.⁸² One decade later, Boaventura described in a petition that he arrived in Rio de Janeiro having travelled with Diogo de Sousa, Mozambique's now former

⁸¹ For the location of Valongo in the city of Rio de Janeiro, see Appendix B.

⁸² Voyage 19069, "Esperança," Slave Voyages Database, <https://www.slavevoyages.org/voyages/RwXw80Hz>.

governor, who was travelling from the Indian Ocean assume a new position in Maranhão.⁸³ Letters from Diogo de Sousa confirm that he arrived in Rio de Janeiro at the same time as Boaventura, but it is not evident whether Boaventura travelled as a freed person, perhaps continuing his work as a sailor, or whether he travelled with the ship's human cargo.⁸⁴

However it happened, Boaventura was now a slave again. Viana sold him to Antonio de Oliveira Pinto, owner of the *Engenho do Morro* in Inhomirim and a *moedeiro* (minter) of the *Real Casa de Moeda*. We can expect that Boaventura contested his enslavement; however, if some accounts are to be believed, he may have had a limited grasp of the Portuguese language. After the purchase of Boaventura, the feitor of the Engenho do Morro recalled having to teach him “the Portuguese language, to pray, and he was baptized with the name Ventura.”⁸⁵ Boaventura's verbal protestations, if spoken in his own language, thus probably went ignored. Bernardo Lourenço Viana would have known his slave was freed in Mozambique, and may have even been indemnified for it.

If Boaventura did indeed have a limited grasp of Portuguese, it may explain why a few years passed until he started repetitively stating that he “was freed because he killed various Frenchmen.” Boaventura racked up a list of other offenses that his new master Pinto would use in his justification for refusing to recognize his legal freedom. He fled the engenho many times after arriving in Rio de Janeiro, and each time was severely punished. Other incidents especially incensed Antonio de Oliveira Pinto. In one instance, Boaventura, fled the engenho with Efigênia, a crioula woman also owned by Pinto. Their destination was the urban parish of Candelaria, where they sought the support of a priest who could marry them.

⁸³ Boaventura Petitions, doc. 3.

⁸⁴ AHU-Rio de Janeiro cx. 165, doc. 12281.

⁸⁵ Boaventura Petitions, doc. 6.

Another incident not only halted sugar production on Pinto's estate, but also revealed Boaventura's familiarity with and interpretation of metropolitan laws regarding freedom and free-soil. When the Portuguese court arrived in Rio de Janeiro in 1808, Boaventura announced that "with its arrival, he and his [fellow slaves] were freed." By interpreting the court's arrival to Rio de Janeiro as a moment of emancipation, Boaventura invoked knowledge about Portugal and its colonial geography that he had likely learned as a sailor. He shared a popular interpretation among enslaved sailors that the 1761 royal decree, which declared Portugal as free soil, emancipated any person who stepped foot in the metropole (chapter two). Many enslaved sailors, as we have seen, invoked this free-soil principle to gain their freedom when they anchored in Portugal. Boaventura used the crown's arrival to pay a visit to the viceroy Conde de Arcos, before whom he demanded his letter of freedom. Pinto also alleged that when Boaventura returned, he had obtained a "faked letter of freedom."

For Pinto, perhaps the most infuriating of Boaventura's "perversities," as he called these acts of disobedience, happened in August 1809, just as sugar mills surrounding the Bay of Guanabara began preparations for the *safra*, or the sugar harvest. For enslaved people, the beginning of the *safra* signaled eight to nine months of unrelenting physical work cutting and milling sugarcane.⁸⁶ In an act of protest, Boaventura cast bronze pieces of the sugar mill directly into the ocean. This again halted sugar production for about fifteen days until Pinto was reached and the pieces replaced. Having effectively halted production, Boaventura also threatened to destroy the entire estate, "publicly saying to his fellow slaves that he would set fire to the *engenho*."⁸⁷

⁸⁶ On the *safra*, see Stuart Schwartz, *Sugar Plantations in the Formation of Brazilian Society, Bahia, 1500-1835* (Cambridge: Cambridge University Press, 1985), 98-131.

⁸⁷ Boaventura Petitions, Doc. 6.

What for Boaventura was an enduring resistance against an enslavement that he had already been liberated from in Mozambique, was for Antonio de Oliveira Pinto the grounds for banishing him to Rio Grande do Sul. The internal slave trade between Rio de Janeiro and Rio Grande do Sul, as we have seen, offered slave holders an accessible circuit for remitting incorrigible slaves to the far southern corner of Portuguese America. Pinto tapped into an already established network of slave traders between the two regions to facilitate the geographical banishment of Boaventura.⁸⁸ Between late 1809 and 1810—after he threatened to set fire to Pinto’s estate—Boaventura was, against his will, taken aboard the *Socorro*, a ship departing for Rio Grande do Sul.

Sale to Rio Grande do Sul surely provoked more duress for Boaventura, who was not only exiled to an unfamiliar region with his fate unknown, but also experienced what enslaved people throughout the Americas feared: separation from kin and community. This meant separation from his spouse, Efigênia. Religious law outlined in the *Constituições Primeiras* (1706) not only established marriage among slaves as a right, but it also explicitly instructed slave owners not to “sell [one spouse] to remote places, where the other spouse, because they are a slave, or have a reasonable impediment, cannot accompany them.”⁸⁹ This law—whose enforceability has not yet been analyzed in Brazil—did not as much restrict slave owners from sending their slaves to distant regions, so much as it said that where one slave spouse went, the other must be within reasonable reach. It was certainly within the rights of slave owners to sell their property as they wished, but marriage complicated this; and enslaved people knew that. For example, Michelle McKinley shows that enslaved people in Lima, Peru invoked conjugal rights in ecclesiastical courts to prevent

⁸⁸ From Rio de Janeiro, Pinto enlisted the assistance of the well-known slave trader and merchant Domingos Francisco de Araújo Roso, who dispatched Boaventura to the custody of João Francisco Vieira Braga, a local slave trader in Rio Grande do Sul. Pinto disclosed this information in the legal documents he drafted to uphold his decision to send Boaventura south. Boaventura Petitions, doc. 6.

⁸⁹ Título LXXI, “Do matrimonio dos escravos,” in *Constituições primeiras do Arcebispado da Bahia* (Brasília: Senado Federal, 2007), 125.

their exile and separation from spouses. Some slaves, she finds, even married solely to prevent a pending threat of banishment, an indication that they recognized how their conjugal rights could limit how slave owners punished their slaves.⁹⁰ Recall that Boaventura and Efigênia fled Pinto's plantation in rural Inhomirim in order to marry in the parish of Candelaria, a marriage that Pinto clearly opposed. This is not to suggest that there were no affective bonds between Boaventura and Efigênia—he did push a reluctant Pinto to set a price for her freedom that he could pay over a number of years—nor that they married for the sole purpose of establishing for themselves a set of rights. But their insistence on their right to marriage reflects a critical way enslaved people transformed their relationships into something legible to canon and secular law. Even so, many slave owners, including Pinto, disregarded this principle of Christian slave governance, adding more anguish to exile and separation. Pinto's decision to sell Boaventura through the circuits of the internal slave trade made separation from Efigênia a constitutive element of the inflicted punishment and exile.

In Rio Grande do Sul, Boaventura found a familiar ally in his struggle against banishment. Diogo de Sousa, the former governor of Mozambique who freed Boaventura in 1797, was appointed the governor of Rio Grande do Sul in 1809, around the same time that Boaventura was transported there. Coincidentally, they both arrived in Rio de Janeiro at the same time in 1798, and both arrived in Rio Grande at the same time a decade later. This was an unforeseen but welcome opportunity for Boaventura to not only challenge his banishment, but also to restore his freedom. After all, if anyone could confirm that Boaventura was a freed person, it was the person who

⁹⁰ Michelle McKinley, *Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600-1700* (New York: Cambridge University Press, 2016), 97-100. On the relationship between slavery and marriage, also see Herman Bennett, *Africans in Colonial Mexico: Absolutism, Christianity, and Afro-Creole Consciousness, 1570-1640* (Bloomington: Indiana University Press, 2003); Alexander L. Wisnoski III, "'It is Unjust for the Law of Marriage to be Broken by the Law of Slavery': Married Slaves and their Masters in Early Colonial Lima," *Slavery and Abolition* 35, no. 2 (2014), 234-252.

granted it. Boaventura petitioned Sousa asking for the chance to present his case in person, hoping that Sousa would recognize him. His petition opened by reminding Sousa of his work as a sailor in the Indian Ocean, and that he “came freed with Your Excellency to Rio de Janeiro.” He described his marriage to Efigênia, and shrewdly framed his exile to Rio Grande as a form of punishment for failed negotiations over her manumission between himself and Pinto. This signaled two things: that Pinto broke his promise to free Efigênia, and that Boaventura’s sale and separation to Rio Grande do Sul violated his rights to and protections of marriage. Sousa offered a written response in December of 1810 after a review of the allegations and hearing Boaventura’s side of the story in person. There was no question in Sousa’s mind that this was the same Boaventura he had freed in Mozambique. He minced no words in offering his take on Boaventura’s account of his re-enslavement: this was an incident “worthy of severe and exemplary punishment.”⁹¹ Sousa granted a travel passport to Boaventura so that he could return to Rio de Janeiro unencumbered and “pursue in a tribunal the restitutions that the law provides for.”⁹²

Returning to Rio de Janeiro, Boaventura opted for the tribunal that granted what some slaves viewed as perhaps the most expedient form of justice: an audience with the prince. The arrival of the Portuguese court to Rio de Janeiro in early 1808 provided enslaved petitioners greater access to royal justice dispensed directly and personally by João VI. In the convention of exiled enslaved people like Antonio Francisco Granjeiro and Joana Correia, Boaventura petitioned the crown, visiting the Royal Quinta da Boa Vista personally. The Quinta da Boa Vista, Kirsten Schultz notes, represented for some a place of “refuge,” a site of momentary asylum to escape cruel treatment. In at least one documented case, an enslaved woman named Jacinta Rosa presented

⁹¹ Boaventura Petitions, Doc. 3.

⁹² Boaventura’s travel passport, which described him as a “preto forro,” was signed in Porto Alegre on March 30, 1811. Boaventura Petitions, Doc. 4.

herself at the royal palace to prevent her separation (through sale) from her children.⁹³ In such cases, accusations levelled against slave owners might result in the placement of slaves in depósito until such claims could be evaluated by judicial authorities.⁹⁴

As was the case for other petitioners of African descent, legal self-fashioning was central to Boaventura's royal appeals before the crown prince. Across his extant appeals, he did not identify as a slave, but rather as a "preto forro" and "preto liberto," framing the matter not as one of gaining freedom but rather of having freedom restored. In one of the petitions, he described his marriage to Efigênia, his efforts to free her, and the punishment of banishment imposed by Pinto after their agreement for her freedom was broken. This signaled an issue João VI would have been attuned to: spousal separation as punishment. Yet, now having returned to Rio de Janeiro with affirmation of his freedom from Diogo de Sousa, Boaventura focused primarily on securing his letter of freedom. To do so, he found that, much like Antonio Francisco Granjeiro, a personal archive of copied documents that could be presented as evidence helped support his petition and prove his freedom. One of these documents was the petition Boaventura submitted to Diogo de Sousa in Rio Grande do Sul, which included in the upper margin Sousa's account of how and why he granted Boaventura's freedom in Mozambique. An equally valuable document that ended up in Boaventura's possession was a ship manifest from Mozambique that listed the names of the enslaved sailors who returned to Mozambique after seizing the Embuscade. How this manifest came into his possession is unknown. But, taken together, these documents enabled Boaventura's

⁹³ Kirsten Schultz, *Tropical Versailles: Empire, Monarchy, and the Portuguese Royal Court in Rio de Janeiro, 1808-1821* (New York: Routledge, 2001), 170-171, n. 92-94.

⁹⁴ Schultz cites the parecer of Viana, who responded to slaves not so much out of a concern for their rights as much as to quell insubordinate and rebellious sentiments: "Although they 'complain of any insignificant punishment,' Viana explained, it was 'customary' to do so 'when they got there [the palace]' 'in order to not provoke the insubordination of slaves in this country.'" *Ibid.*, 171. The parecer, dated April 19, 1809, is in ANRJ, MNB, cx. 6J 78.

petition to prove that through his actions against the French, he was, more than anything else, a “very faithful vassal.”⁹⁵

No longer separated by an ocean, the proximity of the crown also meant that its councilors had greater oversight in evaluating petitioner’s claims. In the post-1808 period, this responsibility fell to Rio-born Paulo Fernandes Viana, a former magistrate of the criminal tribunal who was promoted to the position of police intendant shortly after João VI’s arrival. Brazil-based colonial officials, when tasked with investigating the claims of enslaved petitioners, worked to discredit those slaves and uphold the rights of slave holders, and Viana continued this approach in the post-1808 period as a close advisor of João VI.⁹⁶ In fact, Boaventura was no stranger to Viana. Viana remembered Boaventura as the slave who years earlier, when he was a judge, appeared before him “saying he was freed for killing Frenchmen.”

Viana’s parecer on Boaventura’s petition was exemplary of how officials discredited slaves. He accused Boaventura of stealing someone else’s identity. His main opinion was this: there may indeed have been a sailor aboard the Rosarinho who gained their freedom for heroic efforts against the French, but it was not the same Boaventura in question. Viana cited documents and testimony provided by Pinto that indicated Boaventura was purchased as a “negro novo e boçal” in the Valongo slave market, to which Viana wondered: “how could he be already freed and sold in Valongo among the new blacks?”⁹⁷ If Boaventura was indeed freed, Viana believed, he should be in possession of his letter of freedom, “a most important and sacred title.” What is

⁹⁵ Boaventura Petitions, Doc. 9.

⁹⁶ A.J.R. Russell-Wood, “‘Acts of Grace,’ Portuguese Monarchs and Their Subjects of African Descent in Eighteenth-Century Brazil,” *Journal of Latin American Studies* 32, no. 2 (2000), 307-332; Schultz, *Tropical Versailles*, 165-176.

⁹⁷ Particularly useful for Viana in discrediting Boaventura was a *justificação* produced by Antonio de Oliveira Pinto once he got word from Rio Grande do Sul that his former slave was summoned to speak before the governor, rather than sold as instructed. Pinto called forth three witnesses, including Bernardo Lourenço Viana, who attested to selling Boaventura in 1798. This testimony is bundled with the other documents relating to Boaventura’s case, and which remained in the possession of the police intendant as he evaluated the claims. Boaventura Petitions, Doc. 6.

more, he was listed in the ship manifest and reportedly baptized as Ventura, which raised suspicions about why he identified as Boaventura. Given these contradictions, Viana concluded that Boaventura attempted to deceive the crown prince and his councilors by purposely assuming the identity of the real “Ventura” given the coincidence of their names.⁹⁸ He suggested that Boaventura be returned to Pinto’s plantation, but did not foreclose the possibility that he might still obtain his freedom. Instead, he proposed that a judge take up the matter.⁹⁹

At nearly every turn, it seemed, Boaventura was met with incredulity. It must have seemed outlandish that his claim to freedom was based on killing Frenchmen in the Indian Ocean. It certainly incensed his master, Antonio de Oliveira Pinto, who described the claim as one of Boaventura’s many “perversities.” Even as Boaventura produced documentary evidence linking himself with the events of 1797 and obtaining the testimony of a high-ranking imperial official who granted that freedom, he was still met with skepticism. Decades-long struggles against enslavement and exile could come down to discrepancies in names. As often happens with the study of enslaved petitioners, Boaventura’s outcome is unknown. If Boaventura’s appeal was ultimately denied, the longer trajectory of his experience between Mozambique and Rio de Janeiro would suggest that his challenges, whether they be in the audience of the crown prince, in the court, or on the plantation, were far from over.

Enslaved people developed distinct strategies for protecting themselves and those with whom they developed bonds and kin relationships to protect against the ever-present fear of the sale and separation of their spouses and families. While Boaventura’s claims to freedom in Mozambique are a salient feature throughout his petitions and experiences, one cannot overlook

⁹⁸ I have found one other case where colonial authorities challenged enslaved petitioners because of confusion with names. See, ANRJ, SEB, cód. 69, vol. 3.

⁹⁹ ANRJ, Ministério dos Negócios do Brasil, cx. 6J 83.

that he regularly appealed to or showed a concern for conjugal rights. When Boaventura arrived in Rio de Janeiro in 1798, he was among the very first east Africans to disembark that led to a renewed slave trade between Brazil and the Indian Ocean. Besides those east Africans who arrived with him in 1798, he would not have found a large community of people who shared his language and culture. Efigênia seems to have played a meaningful role in his life as he adapted to Brazil. They both believed in their right to marry despite Pinto's reluctance, as evidenced by their temporary departure from their plantation to seek the support of a priest in urban Candelaria. Boaventura worked many years to fulfill an agreement with Pinto to free her before he would seek to restore his own freedom.

The invocation of conjugal rights and privileges enabled Boaventura to show how separation and sale to the south violated certain rights, but the legal basis of his claims to freedom rested squarely on a rare and exceptional occasion in which enslaved people were freed by the imperial state: service, particularly military, to the crown. This practice dated to antiquity, was reformulated in the Iberian Peninsula over several centuries, and then was adapted to the context of racial slavery and the sometimes-pressing need to recruit slaves for defense against imperial rivalries. Its relative rarity may help explain why it was so inconceivable for those who heard Boaventura's claims to believe that he was telling the truth. Boaventura was not enlisted in a military troop, but his defense of the Rosarinho (captained by a Portuguese naval officer) would have been understood by the crown and its officials as an exceptional act of service against hostile military aggression reflective of the ongoing struggles between the Portuguese and the French in the Indian Ocean.¹⁰⁰ The laws that established how to deal with hostile attacks on Portuguese vessels outlined the rewards for the ships' crew, but made no mention of how to reward the

¹⁰⁰ "Álvara de 7 de dezembro de 1796" and "Álvara de 9 de maio de 1797," in Theotonio Meirelles da Silva, *Historia da marinha de Guerra Brasileira* (Rio de Janeiro: Typographia Perseverança, 1881), 156-176.

enslaved crew.¹⁰¹ Thus, letters of freedom may have been negotiated, if not demanded, by the enslaved crew of the *Rosarinho*. Their actions may have been the precedent for the crew of the *Minerva*, as we saw, who also rebelled against French captors and were rewarded with their freedom. Given that the enslaved crews of the *Rosarinho* and *Minerva* were both owned by Bernardo Lourenço Viana, perhaps the crew of the *Minerva* acted on the knowledge of the freedom granted to Boaventura and his shipmates.

Conclusion

The three experiences narrated in this chapter offer us unusual insight into the lives and experiences of enslaved people threatened with something that the colonial archive typically silenced and excised—“the constant dread” of a “lamentable exile,” the separation of conjugal and familial units, and the fear of a “perpetual slavery” in exile. The lives of Antonio Francisco Granjeiro, Joana Correia, and Boaventura plot across three continents and illustrate how individual slaves and their conflicts with slave owners aligned with broader and shifting trans-Atlantic processes—the making of Portugal as free soil, the dual operation of Angola as slave port and exile colony, the horizon of increased activity between Brazil and Mozambique, and the expansion of the internal slave trade into Rio Grande do Sul. Close readings of the paper trail they left behind attest to the shrewd and creative ways they strategized, improvised, and mobilized different resources and people to delineate and circumscribe their master’s power, even under precarious and vulnerable circumstances.

Their stories show that enslaved people constantly redefined and stretched the definitional boundaries of *sevícias* to include the threat (both imagined and real) of exile and banishment. Here

¹⁰¹ Ibid.

is yet another demonstration of how enslaved people exposed the always-brewing antagonism between royal authority and individual mastery. If either customary or codified regulations offered protection against *sevícias* (chapter three), then defining banishment as a *sevícia* enabled a new set of arguments to challenge the authority of a master. One of these arguments was the recourse to self-purchase, a preferred alternative to a “lamentable exile.” For Antonio Francisco Granjeiro and Joana Correia, self-purchase was always kept on the table, and they kept their money in public deposits to ensure its quick transference to slave owners.

As we have seen throughout this dissertation, legal self-fashioning was a decisive and critical strategy for enslaved people and their representatives as they levelled claims before slave owners, judges, and the crown. Defining one’s juridical and legal standing, even if it was up for debate among others with more power, helped to make visible the stakes of impending banishment and the harm it caused to the bodies and lives of those faced with it. Did not, these petitions asked, vassals (albeit enslaved) deserve protections by the crown? There is even a thread of claims that connects abuses against slaves with the sovereignty of the crown. Identifying as a slave, as a freed person, as an exile, and as an afflicted vassal helped to construct enslaved petitioners as insiders of the imperial community, and therefore as worthy of protections. The case of Antonio Francisco Granjeiro is instructive here. Identifying in some petitions as a slave allowed him to invoke a customary right to self-purchase because of either his wish for freedom or as a protection against *sevícias*. In other petitions, identifying as both a slave and an exile allowed him to also seek a pardon, the mercy and forgiveness available to exiles.

These are examples of the ways enslaved people, because of varying degrees of creativity and contingency—I am thinking here of the chance meeting of Boaventura and Mozambique’s former governor in Porto Alegre—challenged the limits of possibility in an Atlantic space defined

by power, coercion, exile, and a trade in Africans. But we should not look for an overly triumphant narrative even as we rethink how slaves reimagined what was possible within the limits of their legal definitions as both person and property. The cold reality for all three discussed in this chapter was that petitions ended abruptly, appeals were denied, and their final outcomes were unknown.

CHAPTER 5

Witnesses to Freedom: Paula and Her Descendants from Luanda to Rio de Janeiro

In February 1794, fourteen enslaved descendants of an Angolan woman named Paula sued their master for their freedom in Rio de Janeiro, claiming they were “born from a free womb.” Paula, they claimed, lived in Luanda as a freed woman when she was kidnapped, enslaved, and transported across the Atlantic in 1753. Their legal case lasted sixteen years, spanned six hundred pages of records, and gathered testimony from Rio de Janeiro and Luanda.¹ Over the course of those sixteen years, Paula’s descendants moved from slavery to freedom, but ultimately were reduced back to slavery when an appeals court reversed their fortunes. Much like the Atlantic exiles discussed in the previous chapter, Paula and her descendants went to extraordinary lengths to build a record of their legal struggle that could be used as evidence to protect against the violence of slavery. Yet, their challenge was distinct from many of the other cases discussed up to this point. They needed to build evidence of Paula’s freedom not from the judicial and colonial ledgers that plotted port cities in the Atlantic world, but out of the memories of those who witnessed Paula’s freedom in Luanda. To do so, they mobilized trans-Atlantic connections to prove before the law that Paula was wrongly enslaved over half a century earlier.

In this final chapter, I explore the multi-generational struggle of Paula’s family to prove their legal freedom in a colonial world shaped by verbal promises of manumission, conditional freedom, vulnerabilities to re-enslavement, and concealed baptisms. There are two core objectives. The first is to understand the experience of enslaved families as they navigated and experienced

¹ In Brazil’s Arquivo Nacional, the legal suit was at some point separated into two different files. The first half is in ANRJ, Relação do Rio de Janeiro (Código 84), mc. 85, n. 5801. The second half is in ANRJ, EJ. 0. ACI. 0234. The separation of the suit appears to have happened as the case moved to the Casa da Suplicação after that courts’ transplanted to Rio de Janeiro in 1808. Hereafter, I cite the entire suit as Maria Rodrigues et. al. v. Manuel José Rodrigues.

civil litigation for their freedom. The protracted litigation of Paula's descendants, headed up primarily by her daughter, Maria Rodrigues, engendered precarious conditions. As they used the courts to prove Paula's freedom (and by extension theirs), they also dealt with violence from their master. As they learned the intricacies of petitioning, they turned legal procedures into mechanisms for protection.

A second objective here is to think more deeply about the ways that enslaved people built a case for freedom. Throughout the dissertation, we have seen how enslaved and freed people engaged with the paper landscape of the Portuguese Empire by generating petitions, requesting copies of records from far-flung corners of the Atlantic, and by inscribing protections into letters of manumission. In Angola, Paula had no letter of freedom. She was allegedly born free, but this was hidden from her until she became an adult. Paula was only reputed to be free. In the Atlantic corridor between Brazil and Angola, reputation alone could not protect against the violence of the slave trade and the hegemony of slave owners. Fifty years after her kidnapping in Angola, her descendants, seeking their own freedom, built a case around individuals who witnessed Paula's freedom. From Angola, Paula's kin and acquaintances testified to her freedom. In Rio de Janeiro, the community she built there over five decades testified to her protests for freedom when she first arrived. Judges would need to decide if the memories of these witnesses would suffice. As we will see, the matter of proving someone free via witness testimony divided appeals judges.

I have chosen to close the dissertation with this chapter because the story of Paula and her descendants resonates with cases discussed up to this point, thus giving us a better sense of how the lives of members of this family connect with others in the Atlantic world. In the mid-eighteenth century, Paula became an Atlantic exile who fought to return to her community in Luanda. Like so many others, she was vulnerable to the whims of slave traders and the violence of former

masters. When she did finally free herself (a second time) from slavery by manumission in the 1770s, two decades after her arrival in Rio de Janeiro, it was by conditional manumission; this “freedom” meant that she would continue serving her master. By the 1810s, when her descendants exhausted their appeals options after two changes to their legal status in the space of six years, they turned to an avenue many litigants like them pursued: a direct appeal to the crown for mercy.

From Luanda to Rio de Janeiro

Paula da Costa Reis was born in the parish of *Nossa Senhora dos Remédios* in Luanda, Angola on July 7, 1731.² Her mother was Apolonia. Paula’s baptism record did not indicate the name of her father, but one account provided to judges in Rio de Janeiro named a *pardo* priest, Manuel da Costa Reis, as her father.³ Apolonia made her living selling goods in the local market. She lived as an *agregada*, or domestic dependent, in the home of Jose Henrique Vitingão and his wife Maria Correa, along with several other free and enslaved African women, some who gained training as seamstresses, others who worked as domestic servants.

As Luanda emerged in the early eighteenth century as the primary departure point for enslaved Africans to Brazil, Paula was born into a precarious world deeply shaped by the Atlantic slave trade. Living in the home of Vitingão and his wife, *agregadas* like Apolonia and her children perhaps expected some degree of protection from the patronage of their masters, former masters, or heads of household. But this may not have entirely been the case. Vitingão, a prominent merchant himself, allegedly baptized and raised the children of his *agregadas* as slaves to later sell

² Paula’s baptism record reads: “Aos quinze dias do mês de Julho de mil setecentos e trinta e hum annos baptizei a Paula, filha natural de Apollonia de Christovão, escrava da viúva D. Maria Correia, Pay incógnito, e lhe púz os Santos óleos; nasceo aos sete dias do dito mês e anno. Forão Padrinhos José da Gama e Dona Anna da Silveira.” Maria Rodrigues et. al. v. Manuel José Rodrigues, 453-453v.

³ *Ibid.*, 522v.

them through the slave trade to Brazil. This fact may have come to light because one of Paula's siblings ultimately denounced Vitingão for this practice. Shortly after this denunciation, Vitingão is said to have died in prison, leaving his estate to his widow and their children.⁴ In the mid-1740s, Maria Correa passed away, leaving the estate to their two daughters, including Guiomar Correa.⁵

Here, the details become tricky. Women who lived in the same house and were closest to Paula and Apolonia offered two different accounts of Paula's legal freedom. Some suggested that Paula was manumitted at the baptismal font, which would suggest that her mother, Apolonia, was a slave. Others suggested that D. Maria Correa declared Paula free in her last will and testament. I will disentangle these seemingly contradictory accounts later, but for now it is worth noting that, despite divergent accounts, all of the individuals who provided witness testimony for the legal case in Rio de Janeiro decades later insisted that Paula was reputed free by her own kin and community, as well as by Guiomar Correa.

When Guiomar Correa married a man named Manuel Antunes de Abreu, Paula decided to remain in the same home that she had grown up in. In the early 1750s, Abreu raped Paula and she became pregnant. Anna Pereira, an enslaved woman who lived in the same home as Paula in Angola, recounted that Paula had described to her Abreu's "intentions to dishonor her."⁶ When Paula's pregnancy became public knowledge, she, along with two other women, were kidnapped in the dark of night and taken aboard a slaving vessel soon departing for Rio de Janeiro. Abreu and his wife allegedly gave strict instructions to sell the three women to distant parts of Brazil where communication with Angola would be all but impossible. Having lived in the house of prominent Portuguese residents of Luanda, the three women were likely fluent in Portuguese. As Africans

⁴ Ibid., 522-524.

⁵ AHU-Angola cx. 38, doc. 3604.

⁶ Maria Rodrigues et. al. v. Manuel José Rodrigues, 240v.

approached slaving vessels, a priest fluent in indigenous languages met them, investigated claims of “original freedom,” and baptized them before their departure. To circumvent these *inquiridores de liberdade*, Paula and the two other women were brought aboard at night and thus were not branded with the royal mark (*carimbo*). The absence of this royal mark, which rendered the body a site of the transformation of legal status, would become a key point of debate half a century later when officials in Rio de Janeiro inspected Paula’s body for scars of a *carimbo*.⁷

Their abduction evidently caused a serious stir within their community, so much so that many decades later at least one woman in Angola remembered the very name of the person who captained the ship that transported Paula and others across the Atlantic.⁸ The *Santa Cruz* departed Luanda in October of 1753 destined for Rio de Janeiro with three hundred and sixteen enslaved Africans aboard, among them Paula and her yet unborn child.⁹ When she arrived in Rio de Janeiro, she found herself in the thick of the local slave market, where she protested that she was not a slave, but a kidnapped free woman. Because of her vocal protests, many potential buyers avoided purchasing her. One man brought her to his home to see if Paula “pleased his wife.” When Paula insisted that she was free, this man asked for her letter of manumission. One witness later recalled that Paula replied that she did not have one because “the whites committed many frauds.”¹⁰

Ultimately, Paula was sold to the priest Anastácio Rodrigues de Barros, who lived in the Vila de Santo António de Sá, located in the eastern interior of the Guanabara Bay.¹¹ She gave birth to her first child, Rodrigo, who was conceived in Angola. Barros married Paula to his slave João,

⁷ Mariana P. Candido, “African Freedom Suits and Portuguese Vassal Status: Legal Mechanisms for Fighting Enslavement in Benguela, Angola, 1800-1830,” *Slavery and Abolition* 32 no. 3 (2011), 451; Roquinaldo Ferreira, *Cross-Cultural Exchange in the Atlantic World: Angola and Brazil during the Era of the Slave Trade* (Cambridge: Cambridge University Press, 2012), 108.

⁸ Testimony of Victoria Pereira da Silva, Maria Rodrigues et. al v. Manuel José Rodrigues, 254v.

⁹ Voyage 48191, “Santa Cruz,” Slave Voyages Database, <https://www.slavevoyages.org/voyages/RwXw80Hz>.

¹⁰ Testimony of Manuel Lopes da Fonseca, Maria Rodrigues et. al v. Manuel José Rodrigues, 237.

¹¹ For the location of the Vila de Santo António de Sá, located in the current city of Cachoeiras de Macacú, see Appendix A.

a Benguelan man. Over the next two decades, Paula gave birth to eight more children, who comprised the first generation of her Brazilian-born descendants. Paula continued to struggle against her enslavement, successfully enlisting a local Rio official to send for her birth certificate or some other form of proof of her freedom from Angola. When a document arrived, some suspect her birth certificate, Barros hid this information from Paula and her children.

When Anastácio Rodrigues de Barros died (the year is unknown), his nephew, Manuel José Rodrigues, inherited his estate, including Paula's descendants. While Paula's descendants would charge Barros with holding them as slaves "in bad faith," aware that Paula was originally free in Angola, their relationship with Manuel José Rodrigues and his family seemed to be particularly contentious even before Barros' death. Their suit recalled Rodrigues desiring to cruelly punish Maria Rodrigues, Paula's daughter, with *pancadas*, or blows to the body. Only after Barros chided his nephew did he restrain himself from doing this. Indeed, while we do not know exactly when Barros died, it is possible that with the nomination of Rodrigues as an executor of his will and inheritor of his estate, an extra impetus was given to Paula's family to prove their descentance from a "free womb."

A final, vaguer detail of Paula's life in Rio de Janeiro should be mentioned here. When Manuel José Rodrigues inherited Paula's children and grandchildren following his uncle's death, it may have also been the moment when Paula was finally released from slavery. In 1810, sixteen years after the beginning of the legal suit, a copy of a letter of freedom was entered into the court record. It was a conditional manumission conferred to Paula and her husband João in 1777, exchanging continued service to Anastácio Barros until his death for their legal freedom.¹² João is barely mentioned in any of the court documents, and my suspicion is that he died before the suit,

¹² Ibid., 525-525v.

and perhaps even before he could be freed. The witness testimony taken during the litigation occasionally mentioned that Paula was freed. Some believed her conditional manumission was a reward for giving birth to so many children who became Anastácio's slaves. Others said he was merely appeasing her when she found out that he had hidden crucial evidence from Angola of her freedom. Either way, Paula continued to serve as a slave for at least one decade. When her children initiated litigation, she may have indeed been freed. This explains why Paula was not party to the suit.

Bringing Suit

The act of initiating civil litigation against slave owners required some familiarity with the law's procedures and some clandestine activity. For as much as the courts presented a public challenge against slave holder power, enslaved litigants at first needed to move in secrecy to seek out the proper court representatives and to enlist attorneys and other *procuradores* who could represent them. When Matilde Bernardina initiated suit for her freedom against her master on the grounds of excessive punishment in 1798, she first had to flee her master's house to present her body before court representatives. In the eyes of her master, she was not a litigant but a runaway slave. The judge who reviewed her petition ultimately placed in her *depósito*, commencing a multi-year legal suit.¹³ When such suits began, judges ordered representatives of the court to notify the slave-holding defendants and to read aloud the initial petition delivered in service of the suit. Often at the door of their residence, for many this would be the first time they learned of their status as defendants in litigation.

¹³ AHU-Rio de Janeiro, cx. 184, doc. 13385.

In February 1794, a local court official was instructed to find Manuel José Rodrigues on his property and inform him of a petition made against him. The court official read that the petition was generated by “Maria Rodrigues (on behalf of her and her children Feliciano, Amaro, Anastácio, Custódio, e Maria), Joaquina (also on behalf of her and her son Francisco), Rodrigo, Ignácio, Cypriano, Felizarda, Luzia, and Apolonia, also on behalf of her and her son Antonio.”¹⁴ In total, fifteen of Paula’s descendants, essentially all of Manuel’s slaves, were named in the freedom suit; that number would grow by three over the next decade as Luzia gave birth to João, Rosa, and Marcelina. The order to notify Manuel José Rodrigues came from the *Juiz de Fora* in urban Rio, which certainly raised questions to him about how his slaves travelled the long distance between their farm and the city. As they took the initial steps to bring their case before a judge in the urban districts, Maria Rodrigues and her siblings likely relied on a web of community and kin that would ultimately help sustain the suit and its larger claims over the next decade and a half.

Civil suits set out to prove or disprove a set of claims by the plaintiffs. Attorneys did the writing, but the enslaved plaintiffs had an active role in relaying their memory and knowledge to them. Maria Rodrigues and her siblings based their legal suit in fourteen claims (*artigos*) that supported a path towards the recognition of their legal freedom. These fourteen artigos cohered around two main arguments. The first was that they were descendants of Paula, their respective mother and grandmother, who was originally a freed woman in Angola. They insisted that Paula had been freed by her former master’s last will and testament before her death. Despite their enslavement in Brazil, Paula’s descendants were unequivocally born of a free womb. To this argument, then, Maria Rodrigues and her siblings were tasked with proving that Paula had indeed been freed, which was no simple task as we will see.

¹⁴ Maria Rodrigues et. al v. Manuel José Rodrigues, 2-3.

Their second argument followed that as descendants of a free womb, their master, namely Anastácio Rodrigues de Barros and his nephew Manuel José Rodrigues, held them in bondage in “bad faith.” By this, they meant that both individuals were conscious of Paula’s freedom and had even destroyed documents from Angola. To this end, legal redress was not solely the affirmation of their legal status as free persons, but also financial reparations for the lost salaries of each plaintiff named to the suit. This was to be tallied from the age of seven until the final sentence presented by the judge.¹⁵

These two arguments, crafted with exceptional attention to detail in narrating Paula’s life from over half a century earlier, illuminate both the centrality of gender to reproducing slavery and freedom, as well as enslaved peoples’ awareness of this before the law. The suit recognized that the legal status of newborn children followed that of their mother and operated within these gendered distinctions in order to center the legal dispute of freedom directly on the person of Paula, their mother and grandmother. Their artigos also operated within a kind of moral economy of slaveholding, through which both Anastácio Rodrigues de Barros and Manuel José Rodrigues unjustly maintained free persons in enslavement. Seeking legal redress through financial reparations thus framed the key defendant, Rodrigues, as a person of questionable character who inherited property that assumed its value only by unjust enslavement.

Building Autonomy and Acquiring Knowledge about the Law

Enslaved litigants often pursued a customary right to three free days of the week (excluding the sabbath) to work on their case and to earn additional income for legal fees. During this time, litigants were expected to update themselves on judges’ decisions regarding petitions, to generate

¹⁵ Ibid., 13-15v.

new petitions, or to perform labor that could yield extra money to feed themselves. By invoking this procedural mechanism, enslaved litigants sought and created autonomy from their masters, and in the process, engaged with and learned of the law, its practices, and its procedures.¹⁶

The first order of business for Maria Rodrigues and her siblings after submitting their *libelo* was to secure the judge's recognition of their customary right to free time. Just after submitting their libelo, their attorney asked the judge to "assign each one of the plaintiffs three days of the week free...because that is the custom generally practiced in the court."¹⁷ The request itself was not altogether unusual. Evidence from other regions of Brazil suggest that this free time from the dominion of one's master strengthened enslaved litigants' ability to sustain their freedom suits, and that judges authorized the conferral of this weekly time.¹⁸ What ultimately caused lengthy debate about the request was that the plaintiffs numbered fifteen, and that each in theory would be awarded three free days of the week. In an extensive family of enslaved plaintiffs, who would be awarded free time to "work their case"?

Initially, the judge presiding over the suit showed no hesitation in awarding all fifteen family members with the customary three days and granted the request. This might indicate how common it was to grant that free time to enslaved litigants. Immediately, the attorneys for Manuel José Rodrigues raised objections on his behalf, recognizing the implications of fifteen slaves suddenly acting as autonomous litigants for half of the week. His lawyer argued that if the judge

¹⁶ This custom appears to have its origins in sixteenth-century Lisbon, when two separate cases involving slaves raised questions about the mutual obligations of slave owner to slave, and vice versa, during legal proceedings. In 1598, the enslaved woman Margarida and her daughter sued their master. In that case, it was decided that, "the master is not obligated to give money to the slave, or captive, in order for them to pay for their legal suit." Another ruling involved the freedom suit of the slave João Pegú, which determined that, "The master is only obligated to give the slave time to go and petition...and will give them three days of the week." Melchior Phaebo, *Decisionum Senatus Regni Lusitaniae...* (Olyssippone: ex Officina Georgij Roderici, 1625) tomo 2, Aresto 35, 37.

¹⁷ Maria Rodrigues et. al. v. Manuel José Rodrigues, 15v.

¹⁸ Fernanda Aparecida Domingos Pinheiro, "Em defesa da liberdade: libertos e livres de cor nos tribunais do Antigo Regime português (Mariana e Lisboa, 1720-1819)," Ph.D. Diss., Universidade Estadual de Campinas, 208.

granted any of the enslaved litigants autonomous time, they should necessarily secure a bond that would indemnify Manuel José Rodrigues for the loss of his property.¹⁹ The insistence by slave owners that enslaved litigants post a bond on their person or their salaries highlighted their efforts to stymie the progress of a freedom suit by leveraging their own rights to their property within procedural matters.²⁰ Manuel José Rodrigues demanded that the enslaved family of litigants, through a third party, front their own market value as well as the sum of their daily salaries in the event that they used their autonomous time to flee the city.

The matter was so pressing for Manuel José Rodrigues that he challenged the judge's decision before the *Relação do Rio de Janeiro*, initiating months of appeals between the two sides. His attorney penned appeals that, while partially rooted in jurisprudence, mostly stoked fears about the kind of precedent that might be set if this entire enslaved family received three autonomous days without ensuring bonds on their person and salaries. This “grave prejudice” would set an example to other slaves that by the end of the case, if they received an unfavorable decision, they would “absent themselves to remote areas where they could no longer be seen.”²¹ When judges of the *Relação* rejected a first appeal, Manuel's attorneys strengthened their language in a second appeal, citing the “grave prejudice this would cause to all of America, whose property consists of slaves.” Manuel José Rodrigues and his attorneys believed that the autonomous time should only go to two or three of the “most capable” slaves, and that they secured themselves with a bond.²²

The procedural dispute dragged on for nearly one year. By May 1795, Maria Rodrigues and her family continued to insist that everyone receive three autonomous days. In the exchange of appeals that dragged the matter on for as long as it did, it is possible to glean the significance of

¹⁹ Maria Rodrigues et. al. v. Manuel José Rodrigues, 17.

²⁰ See chapter one and Pinheiro, 186-187, n. 92.

²¹ Maria Rodrigues et. al. v. Manuel José Rodrigues, 32-34v.

²² *Ibid.*, 37-39v.

this issue to the family of plaintiffs. The autonomous free time of the week undoubtedly provided Maria Rodrigues and her siblings with time to engage with the legal system in a way that could advantage their claims, but it also extended a measure of protection to their family members and children. Because eight of the plaintiffs named to the suit were minors, and therefore depended on their parents, three free days of the week also ensured that the adults of the family could work to feed their children. The enslaved plaintiffs recognized that subsistence was not something guaranteed by their master. Their lawyer summarized this sentiment by noting that the three days are “not only to work their respective case, but also in that same time to earn something to eat, and for the costs of litigation; because their masters will not pay them or feed them during these three days.”²³ It did not matter that only one or two individuals centered their efforts on the case. To the enslaved plaintiffs, autonomous time ultimately meant protecting and sustaining their family unit, which could only be guaranteed if all fifteen plaintiffs were awarded the same autonomous time.

After the kind of back-and-forth maneuvering and appeals that often characterized litigation over manumission, judges of the *Relação do Rio de Janeiro* struck an agreement amongst themselves that “only two or three of the most capable [plaintiffs]” would be awarded three free days of the week.²⁴ The decision was a major blow for Maria Rodrigues, who had spent the previous eighteen months arguing for the collective autonomy of her family. The best she could do for now was to more precisely define which three days of the week a select number of individuals, including herself, would be granted. In a petition to the judge, Maria Rodrigues cleverly requested the three days be Monday through Wednesday, conveniently following the sabbath, which already customarily belonged to slaves as a free day. Given the long distance between Cachoeiras de Macacu and the urban district of Rio de Janeiro, one extra day allowed for

²³ *Ibid.*, 50.

²⁴ *Ibid.*, 54.

travel between the two points. The judge agreed, and now Maria could count on four consecutive days of the week to be free from Manuel José Rodrigues.²⁵

The relative degree of autonomy enjoyed by the enslaved plaintiffs during their litigation continued to be a flashpoint between themselves and their master over the next few years. One dispute points towards an inventive interpretation among the enslaved plaintiffs of the ruling (*acordão*) that determined only two or three individuals were to be elected to “work their case.” In January of 1796, Manuel complained to the judge overseeing their case that his slaves “were saying that the three days are for everyone, perverting the aforementioned rulings.”²⁶ The discrepancy came down to a close reading of the actual ruling, which explicitly limited the number of individuals who could “work their case,” but made no mention that the other enslaved litigants could not take the three days to yield an extra income. As their lawyer explained in his response to the complaint, the ruling did not prevent the other slaves from using the three days to continue providing for themselves.²⁷ Ultimately, the judge shot down this interpretation and the *Relação do Rio de Janeiro* redefined the terms of the weekly autonomous time. Manuel’s complaint nevertheless revealed that Maria and her family, in conjunction with their attorney, continued to take stances and reinterpret judicial decisions that allowed them to manifest degrees of autonomy from their master’s dominion in the margins and cracks of the court record.

As the scope of their weekly autonomous time came to be increasingly delineated, and therefore circumscribed, Maria Rodrigues and her siblings used the public court record to widen and protect the rights of those who were elected three days of the week to work their case, as well as those who were not. In October of 1796, Maria Rodrigues petitioned on behalf of her family to

²⁵ Ibid., 63.

²⁶ Ibid., 100.

²⁷ Ibid., 129.

elect herself and her two brothers, Ignácio and Cypriano, as the three “most capable” litigants to work their case. She did this because their master repeatedly threatened them with “sevícias, imprisonment, and blows.” The petition requested that if such physical mistreatment continued to threaten their ability to perform their court-granted duties as litigants, they be placed in the custody of a neutral third party (depósito), and Manuel José Rodrigues be obligated to provide them medicine and the necessary daily sustenance. The petition also acted as a space to testify against their master’s “customs,” which included usurping as his own the food that the family planted for themselves, leaving them in “extreme necessity.” Offering the petition was a shrewd move, for it required the judge to send an official to the door of Manuel José Rodrigues’ door to read the petition aloud, effectively making his encroachment on his slaves’ limited rights a matter of court and public concern. If only three members of the enslaved family were to have access to weekly autonomous time, Maria Rodrigues and her siblings came to see the court record as an avenue through which to testify against the state of “extreme necessity” they lived in.²⁸

Since neither positive law nor observable legal precedents delineated the customary practices of enslaved families involved in litigation, the legal moves by Maria Rodrigues and her siblings to invoke their rights to three free days of the week reflected their desire for both autonomy to sustain their case as well as their insistence on protecting their family unit. Over two years after the initiation of their suit, both sides of the freedom suit continued to debate and delineate the terms of this autonomous time, an indication of precisely what was at stake for both sides. Manuel José Rodrigues recognized that the concession of autonomous time to each of his slaves also represented a serious concession of his mastery, perhaps even an irreversible path towards the loss of his slaves. The enslaved litigants, on the other hand, recognized that this customary right to

²⁸ Ibid., 145.

autonomy represented a means to protect and provide for their family, who increasingly lived in “extreme necessity.”

There is still another implication of the customary right to autonomous time. As enslaved litigants like Maria, Rodrigo, and Cypriano (the elected litigants) moved between judges, scribes, and their lawyers during their three days, they acquired an intimate understanding of the law and its processes that allowed them to, over time, make increasingly sophisticated legal moves on behalf of their kin.²⁹ Consider that for nine years, between the initiation of their suit and the first instance decision, they watched scribes pen petitions, listened as judges handed down decisions, closely listened to petitions read aloud and made against them, debated with their attorneys about their case, tracked down witnesses to testify on their behalf, and shared knowledge amongst themselves and within their community of kin.

In 1797, the enslaved plaintiffs introduced a telling piece of evidence that exemplified how Maria Rodrigues, as an enslaved litigant, was much more than a passive figure following the lead of her attorney. After Maria elected herself as a key litigant in the petition discussed just above, Manuel José Rodrigues protested vigorously. He invoked her gender and status as a married woman as a justification to prevent her from travelling to the city regularly to present their case. This came just as the petition in her name and on behalf of others was read aloud to him at his door step, perhaps embarrassing him, certainly angering him. Although gender dynamics played out in everyday interactions within the courts, Manuel José Rodrigues feared something much more than a threat to her honor. To challenge his stance, the enslaved family of litigants secured a sworn, written statement by the court’s primary scribe that “since the day the suit was proposed... Maria

²⁹ On the knowledge acquired from such interactions in Peru, see José Ramón Jouve Martín, *Esclavos de la ciudad letrada: esclavitud, escritura y colonialismo en Lima (1650-1700)* (Lima: Instituto de Estudios Peruanos, 2005).

Rodrigues is the individual who has worked the said case.”³⁰ His statement allows us to perceive how weekly autonomous time functioned as a method of acquiring a deep and familiar understanding of the law.

Sevícias and the Struggle for Depósito

Paula’s descendants recognized the law as an avenue for seizing a freedom that was owed to them at their birth, but they also realized its limits. As litigation dragged on for years, any equilibrium of power, obedience, and deference slowly deteriorated as both sides of the conflict sought to achieve degrees of autonomy or to preserve mastery. When Maria Rodrigues’ petition described their lived experience as a state of “extreme necessity,” she was simultaneously denouncing her master and exposing the ways in which litigation engendered often extreme vulnerabilities, particularly for one’s material well-being. This somber reality surely weighed heavily in the minds of enslaved litigants as they contemplated bringing suits, sustaining them, or appealing unfavorable decisions.

Enslaved people confronted these vulnerabilities by mobilizing the courts, who now had committed at least some interest in the conflict at hand, to provide some security for themselves and their family. For however long a suit lasted, both sides of litigation lived with a more direct intervention of the law in their daily lives. Judicial officials appeared at the entrance of one’s property to read aloud petitions, took reports of living conditions, and removed slaves who alleged sevícias. All the while slave owners and slaves alike recognized that they could not control how their actions would be refracted in the court record. But they could manipulate the levers of the law in creative ways to assert limited rights for themselves not only as slaves, but also as litigants.

³⁰ Ibid., 197.

As we saw above, Manuel José Rodrigues watched Maria, over several years, gain a vernacular understanding of the law that she used to increasingly chip away at his authority. With this knowledge, the enslaved family of litigants found ways to inscribe into the court record their own definition of appropriate and fair punishment, and more importantly, to identify specific acts that exceeded that.

One of the ways they did this was by clearly delineating which food rations belonged to them and which rations would be shared with Manuel José Rodrigues. The matter was important because it directly impacted their ability to sustain themselves and to cover legal fees if particular goods could be used to sell on the market. One petition from September of 1796 complained that Manuel José Rodrigues “intended to claim” as his own the “corn, beans, and various other things” they had planted during their free time. Although the judge lived in the urban districts of Rio de Janeiro, he would have been familiar with enslaved peoples’ customary rights to their own farm plots with which to provide food and extra income for themselves. The petition insisted that the usurpation of their plots was a direct attack on their litigation, to “reduce them to a state in which they have nothing to sustain themselves or their litigation.” They called upon the judge to issue a written order for Manuel José Rodrigues to cease coopting their food, an order which they could keep and defend themselves with if it occurred again. In effect, Maria Rodrigues and her siblings were creating a paper trail of their claims that could be invoked if such violations on their customary plots continued.³¹ Claims to the usurpation of their plots may have operated within an expansive definition of *sevícias* by the enslaved family of litigants, who treated the matter as an issue of subsistence and survival. As litigation carried on, the family increasingly felt such attacks

³¹ *Ibid.*, 151-151v.

on their livelihood by Manuel José Rodrigues, and began to more explicitly frame their disputes in terms of *sevícias*.

Tensions erupted in April of 1797. One day, after completing her three days of work in the city, Maria Rodrigues desired to return home to Cachoeiras de Macacu to “fulfill her duties” to her master. When she returned, Manuel José Rodrigues apprehended her in a small house on his property with “shackles on her feet.” He held a knife against her breasts, saying that “she was not to leave there, or else there would be a rigorous punishment.” His overseer witnessed the incident but did not intervene. Maria managed to escape by making a hole through the wall of the house and, in search of what she described as “asylum,” presented herself to a judge.

Days later, Maria lodged a complaint to the judge of her case in which she asserted that “even though [Manuel José Rodrigues] is reputed to be her master during the course of litigation for their freedom...he should not punish her for reasons related to that same suit.” She also used the complaint to raise concerns about the treatment of her family, who fell victim to “hours of rough punishments.” Beyond testifying to their master’s cruelty, the petition asked the judge to take decisive action on three separate requests: to secure Maria’s safety, that judicial officials investigate the allegations of cruelty against her family members, and that any documentation of these requests be placed in the court record to determine “what is best for all.” Maria’s petition persuaded the judge to send an order to local officials in the Vila de Santo Antonio de Sá, where Cachoeiras de Macacu was located, to look into the allegations.³²

When officials arrived on Manuel José Rodrigues’ property, they asked him to show them the small house where he allegedly locked up Maria. There, they found evidence of Maria’s claims—the shackles, the small hole that she made to escape, and a confession from Manuel that

³² *Ibid.*, 162-162v.

he imprisoned Maria. All of this was done in the presence of Maria's family. Once Manuel confessed, attention turned to them. As Manuel bitterly looked on, they were asked if they had ever been punished by their master. Felizarda went first, saying that Manuel "whipped" her. Apolonia responded next, stating she was "imprisoned with irons." Feliciano, Maria's son, attested to being punished with spankings (*surra*).³³ The scribe bluntly transcribed only the methods of punishment attested to by those it was inflicted upon, thus concealing any glimpse into how Felizarda, Apolonia, and Feliciano described their experiences, or how it was contested or affirmed by others. Nevertheless, the investigation conveyed a stunning scene. Manuel José Rodrigues wanted to impede the progress of his slaves in their litigation against them by using force, violence, and threats, and by attacking their material well-being. The result, ironically for him, was that the court penetrated deeper into his home and his relationship (however strained) with his slaves.

The judicial officials who investigated the claims of *sevícias* decided to remove everyone (thirteen slaves by their count) from Manuel's property and place them in the custody of a third party. Not surprisingly, Manuel instructed his attorney to challenge the judge's decision to sequester his slaves. Manuel defended his actions, claiming that he viewed Maria not as a litigant performing work on her case during half the week, but rather as a fugitive for two years. He also disputed the idea that his punishments exceeded fair and appropriate treatment.³⁴ His appeal went before magistrates of the *Relação do Rio de Janeiro* who concurred that there was insufficient evidence to prove that what the enslaved family experienced was *sevícias*. They ordered that all individuals be returned to Manuel's property, but conceded that because his actions against Maria constituted *sevícias*, she was to be placed in *depósito*.³⁵ Although Maria secured legal recognition

³³ *Ibid.*, 165-166.

³⁴ *Ibid.*, 168-169v.

³⁵ *Ibid.*, 171 and 177-177v.

of her depósito, for her kin it was a callous reminder of the contingencies of the courts and appeals systems to at once act on their complaints and just as quickly shoot them down.

Maria's petition was an urgent denouncement of her harrowing imprisonment that stemmed from her active role in the litigation of her family's freedom. However, once the appeals system overturned the judge's decision to place the entire family in the deposit of a third party, over two years passed until her custody was arranged—at least from the court's official view. In that interim, both sides quarreled in the court record, and probably more bluntly outside of it, over her deposit. Maria suggested one individual who could act as her depositary, but Manuel invoked his authority as her master to negate her request, responding in a short comment written in his own hand that a more appropriate deposit would be the local jail, since she “is a fugitive and has not shown obedience to [him] for over one year.”³⁶

In this interim, Maria and her family also encountered disagreements with their attorney. In 1798, they petitioned to change lawyers—a reminder that enslaved litigants assessed the performance of those who wrote on their behalf.³⁷ The record also falls silent (twice) for five to six months. Responding to a petition from Manuel José Rodrigues about settling the issue of her deposit, we learn that in 1799 judicial officials found Maria in the home of a man whom they described as a freed *cabra* (mixed-race, African-descended) man. Finally, in July of 1799 Maria was deposited in the home of a man named Tomás Francisco Viana who lived in the city and agreed to welcome her into his home.³⁸

Just as Maria settled into her new residence in July, new allegations of sevícias emerged against Manuel José Rodrigues. His actions come across as a reaction to his inability to control

³⁶ Ibid., 185v.

³⁷ Ibid., 194. A small note from their attorney, Teotónio Ribeiro de Paiva, gives the impression that he was released from his duties, rather than walking away from them.

³⁸ Ibid., 230v-231.

Maria's movements. Apolonia, Maria's younger sister, lodged a new complaint on behalf of herself and her two nephews, claiming they had been either sold or donated to a local captain named Joaquim Possidônio, who had treated them with "extraordinary sevícias."³⁹ As we saw with the case of Joana Correia in chapter four, the depósito process functioned partly to protect enslaved litigants from the threat of sale and banishment that might result from litigation.

When Manuel's slaves were returned to his property after being removed in 1797, they remained vulnerable to this threat. In fact, it is likely that Manuel's decision to donate the three slaves has its roots in the events of 1797, when judicial officials brought their inquiry of sevícias on Manuel's property. Suspecting that a sale or donation had been made, either Maria, Apolonia, or one of their siblings visited a local notary to figure out whether a sale had indeed been made in the recent past. They found a notarized bill of donation made by Manuel in May 1797. This donation was made just weeks after his slaves were returned to his property, and included the names of Apolonia, Amaro, and Feliciano. (The latter two individuals were Maria's sons.) Note that two of these three individuals (Apolonia and Feliciano) were the same ones who denounced Manuel's cruel treatment in the presence of court officials. Manuel may have used the donation as an insurance policy: if the scales continued to tip away from him, keeping a few slaves (including those who once questioned his authority) in the custody of a trusted acquaintance could yield income from a future sale or at least stymie litigation efforts. There is no indication that Manuel transferred the three slaves earlier than July of 1799, which suggests that when he did finally "donate" them to Possidônio, it all but confirmed the act as retribution for Maria's court-sanctioned deposit in the city.⁴⁰

³⁹ Ibid., 264.

⁴⁰ Ibid., 283.

In denouncing both Manuel and Joaquim Possidônio, Apolonia placed her injured body into evidence. Two years earlier, Manuel had successfully reclaimed his slaves from depósito by appealing to the *Relação do Rio de Janeiro* that there was insufficient proof of sevícias against his slaves, save for Maria. Apolonia may have remembered this fact, for she petitioned a judicial official to perform an examination of her body and entered a copy of this report into the court record.⁴¹ Recognizing Maria's deposit as a precedent, both Maria and Apolonia, in separate requests, proposed that Apolonia be deposited with Maria, along with the other two "donated" slaves. They offered damning evidence against Manuel, including the notarized letter of donation and the vivid report of injuries sustained by Apolonia. Manuel challenged the proposals for deposit. He went as far as to suggest that the report of bodily injuries entered into evidence did not sufficiently state Apolonia's name and "condition," thus leaving open the question of whose body the report inspected, and whether foul play was at hand.

The trajectory of the legal suit took a dramatic turn months later, in February 1800, when Manuel José Rodrigues died from an illness.⁴² His petitions made occasional references to illness in the preceding years, but his death in 1800 appears to have been sudden. Litigation stalled again as his widow, Aguida Caetana da Silva, assumed ownership of his property and became the lead defendant of the litigation with who were now solely her slaves. Her immediate entry into the litigation process suggests she shared her husband's urgent desire to prevent the freeing of Paula's descendants. Now a widow and with a young son, Aguida recognized that her own security as a property owner depended on keeping her slaves from gaining their freedom. By the time of

⁴¹ Ibid., 265-266. Sherwin Bryant underscores that such acts and "performances" were "aimed at ingratiating themselves to court officials in hopes of eliciting royal mercy." *Rivers of Gold, Lives of Bondage: Governing Through Slavery in Colonial Quito* (Chapel Hill: The University of North Carolina, 2014), 125.

⁴² Maria Rodrigues et. al. v. Manuel José Rodrigues, 298. Manuel José Rodrigues died on February 16, 1800. The priest who administered his last rites noted that Rodrigues died with no will or testament.

Manuel's death, Apolonia's allegations were still not resolved. Despite Aguida's attempts to pick up where her husband left off on the appeals, the judge of their case was already keen on depositing Apolonia, Amaro, and Feliciano, and did so finally in July of 1800.⁴³

Struggles over *depósito* would continue until a final ruling was made in 1803. In this unusually protracted process, Maria and her siblings displayed a fluency in legal procedures for inscribing protections and rights for their security and material well-being. Over the course of their litigation—over one decade—they engaged court officials over questions of *sevícias*, deploying a flexible, adaptable, and at times expansive definition of the term that reveals the broad contours of what their family conceived of as just, fair, and appropriate treatment. Importantly, they learned that they could invoke two different juridical standings. Presenting themselves as injured slaves gained at least an audience with a magistrate, but Maria, Apolonia, and others who presented their injured bodies before legal authorities, who testified against cruelties in the presence of their master, or who complained of stolen rations, confidently invoked identities as litigants. In so doing, they connected Manuel José Rodrigues' offenses against them with assaults on the law itself.

But as we have seen throughout this dissertation, the law was an unpredictable avenue for immediate redress. So contentious was every petition and request that nearly every judicial ruling on those petitions was appealed to higher authorities in the *Relação*, which had the effect of not only stalling litigation, but also inadvertently creating more vulnerabilities for enslaved litigants who waited for appeal rulings. The feeling of achievement from lawfully being removed from the custody of a slave owner could be quickly upended if a judicial official revoked an order for *depósito*. At best, enslaved litigants like Maria could hope for sympathetic judges, but they could not control the decisions those judges and their superiors handed down. The tactics used to inscribe

⁴³ *Ibid.*, 325-327.

limited rights and protections as slave *and* litigant were arguably most successful when they persuaded court officials that they shared overlapping interests in maintaining the stability of legal proceedings.⁴⁴

Witness Testimony and the Burdens of Proof

As enslaved people negotiated their legal freedom within the courts, they also relied upon a rich network of extended kin, neighbors, community, and others who allied themselves with their freedom struggle. Exploring enslaved women's legal actions in Rio de Janeiro and Cuba in the years before abolition, Camillia Cowling reminds us that relationships "with the law [were] formed through socially generated knowledge and practices."⁴⁵ It would have been nearly impossible for enslaved litigants to have initiated suits or petitions, or to have sustained them, without some degree of support and insight offered by individuals who are typically excluded from the public record of claims-making. The court record largely silenced the voices and contributions of enslaved allies due to the legal restrictions in Portuguese law on the ability of slaves to contribute testimony.⁴⁶ They offered other forms of support that were no less significant to the outcomes of litigation. The case of Paula and her descendants is particularly powerful because the massive paper trail produced by the courts' scribe allows us to glimpse how enslaved litigants tapped into their bonds of kin and community to support their challenges against enslavement.

Paula's early years in Rio de Janeiro were undoubtedly harrowing for her, but she quickly found and built local networks of kin and community from the ashes of her life in Luanda. One

⁴⁴ Randy Browne arrives at similar conclusions in his study of enslaved claimants in Berbice. *Surviving Slavery in the British Caribbean* (Philadelphia: University of Pennsylvania, 2017), 159.

⁴⁵ Camillia Cowling, "'As a slave woman and as a mother': women and the abolition of slavery in Havana and Rio de Janeiro," *Social History* 36, no. 3 (2011), 305.

⁴⁶ *Ordenações Filipinas*, Liv. 3, Tít. LVI, § 3.

individual she encountered was Anna Pereira, who lived in the same house as Paula in Luanda and had been one of the handful of free Angolan women who fell victim to kidnapping. Anna Pereira remembered that Paula “appeared in [Rio de Janeiro]” and they discussed the circumstances that led to their enslavement across the Atlantic. They likely strategized how to communicate with people in Angola that could secure their return. Paula also encountered Luzia in Rio de Janeiro, an enslaved woman who was described as her cousin. An enslaved woman named Tomásia Maria, recounted regularly travelling with Luzia to the rural hinterlands where Paula was finally sold. There, Luzia conveyed to Paula “that it was always good to see her, because Paula was here, and she missed her.” When Paula herself did the painstaking work of seeking evidence of her freedom in Angola from Rio de Janeiro, she counted on Tomásia and Luzia to provide her refuge in urban Rio while she enlisted officials and procuradores to work on her behalf.⁴⁷

Their memories of finding Paula in the city where they were enslaved is available to us because decades later, Maria and her family called upon a group of witnesses, including Anna and Tomásia, to testify to Paula’s freedom. Recall that the crux of the legal argument for freedom in this case rested on descendancy from the free womb of a wrongly enslaved woman. The key events up for debate—Paula’s reputation as a freed woman, her kidnapping, and her enslavement in Rio de Janeiro—happened four decades before the 1790s, when the legal suit was brought. They engaged with procedural matters to protect themselves during litigation, but to build a legal case in a largely written and literate society, they had to invoke bonds created over time and space, to harness the memory of their community, and then present this in a legible way to judges.

Although the suit dragged on for nearly a decade, witness testimony was collected in 1795, relatively early in the trajectory of the suit. A considerable degree of preparation would have gone

⁴⁷ Ibid., 241.

into identifying individuals who could testify on Paula's behalf. They also had to convince those individuals to actually testify before a scribe. When the initial claims of the case were outlined by Paula's descendants, Maria and her siblings surely had in mind a set of individuals who had knowledge of Paula's trajectory from Luanda to Rio. Paula was largely absent from the court proceedings herself given her age and the fact that she had already been freed by a conditional manumission. But she would have had to advise her children about whom she knew and who was still alive, and her children likely spoke with others about what kinds of information they recalled about Paula's life.

Recording witness responses was a deeply uneven, at times unreliable, practice. Scribes attempted to capture nuances in individual responses. Yet they also shortened the testimony of witnesses, and found ways to inscribe their own biases in the text. What is more, witnesses were asked only to respond to each item originally listed in the libelo. In turn, scribes wrote their responses in the very same language of the questions that were originally asked of them, effectively transforming the "voice" of the witness.

Maria Rodrigues and her siblings called seven witnesses to testify.⁴⁸ The list they provided to the judge for approval was calculated, every witness providing a different perspective on Paula's enslavement. Not all witnesses provided lengthy answers or even necessarily came across as supporters of Paula's freedom, but they remembered her protests when she arrived in Rio de Janeiro and had some limited knowledge, either first hand or through word of mouth, of the circumstances surrounding her enslavement in Rio de Janeiro. The first witness, João de Sousa Franco, was originally named in the artigos de libelo for having intimate knowledge of how Paula's master stymied her efforts to secure paper proof of her freedom from Angola. In his testimony,

⁴⁸ The following discussion of witness testimony from Rio de Janeiro comes from *ibid.*, 232-241v.

João de Sousa Franco confirmed that after her many attempts to communicate with individuals across the Atlantic, some proof of Paula's legal status had arrived from Angola. His testimony implied that Paula's master, Anastácio Rodrigo de Barros, ignored the proof and maintained Paula in slavery "in bad faith." A second witness testified to knowing that Paula and Isabel (described as Paula's *parceira*, or companion) arrived in Rio de Janeiro pregnant and telling those who tried to buy them in the slave market that they were sold to Brazil as punishment. This second witness did not initially declare her relationship to the case, but it is likely that she was married to a slave trader who facilitated Paula and Isabel's respective sales. A third witness, Anastácio's former feitor, or overseer, was called, but offered little in the way of supportive testimony for Paula's descendants.

The remaining four witness were freed people of African descent with knowledge of Paula's struggle against her enslavement. They were all enslaved during the time of Paula's arrival in Rio de Janeiro, but by the time they were called to testify, had gained their legal freedom. Anna Pereira's testimony that was highlighted above confirmed that she knew Paula when they lived in the same household in Luanda. Perhaps most importantly, her testimony invoked memories from Angola, something the other witnesses could not provide. Maria and her siblings recognized Anna as a crucial witness who could speak to Paula's story because she herself had been kidnapped and enslaved in Rio de Janeiro.

Maria and her siblings also found another witness named Manuel Lopes da Fonseca, a freed pardo man. Decades earlier, when Manuel was still a slave, he recalled being in the presence of his master and godfather, José da Costa Moura, who originally attempted to purchase Paula. Manuel testified that Paula's passionate protests against her enslavement dissuaded Moura from

purchasing her. He instead only purchased Isabel, Paula's *parceira*. Isabel's integration into that household likely explains how Manuel remained in touch with Paula and her descendants.

Teodora Maria de Jesus, a *parda* woman, remembered Paula well. Now a freed woman living in the city, Teodora was once a slave in the same region where Paula lived after arriving in Rio de Janeiro. Teodora admitted that many years had passed since she was a slave, but that she remembered key details of the decades between Paula's enslavement and the pending litigation of her descendants. She knew "because it was public" that Paula vigorously protested that "she was freed," and that Paula tried many times to correspond with individuals in Angola who could send proof of her freedom. A final witness, Tomásia Maria, came to know Paula through Luzia. As described above, Luzia and Tomásia often travelled together to Cachoeiras de Macacu. One of these times, Tomásia recalled, Paula vividly recounted the events leading up to her enslavement in Luanda. Paula told Tomásia and Luzia that Manuel Antunes de Abreu intended to have sex with Paula and ultimately punished her when she became pregnant by sending her to Rio de Janeiro.

Maria and her siblings mobilized witnesses who shared their memories of Paula's initial contestations. That so many firsthand witnesses could be gathered to support or at least address the claims laid out in the suit is testament to the time-consuming care and attention they gave to supporting the case with credible and relevant witnesses. What is more, we glimpse a web of connections and the social architecture of the kinds of communities enslaved people established across households and between urban and rural space. The initial shock of moving through Rio's slave market while pregnant surely marked Paula's initial days in the city, but she soon found that she could regenerate many of the ties that were severed by her enslavement when she found other women whom she knew from Angola, and who formed some part of her kin network. She travelled with Isabel and kept in close contact with her. She visited with her cousin, Luzia, whose friend

Tomásia would not only become a close acquaintance, but a key witness for Paula's descendants. The witness Manuel Lopes da Fonseca recalled that Maria at least once called upon Isabel for a favor. She asked Isabel to go to her own master and to ask him to mediate with Maria's master, so that he would not punish her so severely.

One of the most remarkable elements of this case was that witness testimony was gathered on Paula's behalf not only in Rio de Janeiro, but also in Luanda exactly half a century after her kidnapping in Angola. Histories of Atlantic Africa reveal powerful evidence that bespeak how people of African descent registered and maintained bonds and kin across the vast space of the Atlantic.⁴⁹ James Sweet, for instance, uncovered how one enslaved woman, Lucrecia de André, won her freedom after her brother in Angola remitted money for her manumission in a "four-man relay across the Atlantic." Sweet observes that "the uncertainty and uprootedness that accompanied enslavement were never forgotten, neither among the enslaved in the Americas, nor among their kith and kin left behind in Africa."⁵⁰ The trans-Atlantic testimony gathered fifty years after Paula's enslavement is a powerful testament to this.

The court record does not disclose the deliberations among Paula's descendants about requesting witness testimony from Angola, but the requests themselves reflect their confidence that Paula's former community could bolster their case through their memories of Paula's life in Angola. Again, Paula probably conferred on the matter, certain that some individuals could come forward on her behalf. When the request for witness testimony from Angola was presented in 1795,

⁴⁹ For example, see Roquinaldo Ferreira, *Cross-Cultural Exchange in the Atlantic World: Angola and Brazil during the Era of the Slave Trade* (Cambridge: Cambridge University Press, 2012); James Sweet, *Domingos Álvares, African Healing, and the Intellectual History of the Atlantic World* (Chapel Hill: The University of North Carolina Press, 2011); João José Reis, *Divining Slavery and Freedom: The Story of Domingos Sodré, an African Priest in Nineteenth-Century Brazil* (Cambridge: Cambridge University Press, 2015).

⁵⁰ James H. Sweet, "Manumission in Rio de Janeiro, 1749-54: An African Perspective," *Slavery and Abolition* 24 no. 1 (April 2003), 54.

Manuel José Rodrigues implored the judge to deny it.⁵¹ His attorney offered legal reasoning against the carta de inquirição, but more pressing issues were lodged in Manuel's mind. Collecting testimony would set the case back one to two years, and perhaps even more worrying, could offer more definitive proof that Paula was a freed woman in Luanda. The judge, as well as a higher appeals court, allowed the materials to be sent to Luanda in November 1796, and they arrived in April 1797. Authorities in Rio set a deadline of November 1797 for testimonies to be collected and then sent back across the Atlantic.

It is unclear whether Maria and her siblings delineated the names of witnesses beforehand, or whether a broad call was put out to residents of Luanda to testify. Either way, four women came forward.⁵² Victoria Pereira da Silva testified first. She grew up in the same household as Paula while learning to be a seamstress. Victoria recalled that Paula's freedom, allegedly conferred by testament, was "public and notorious among those who lived in the same house, where after [Paula was given freedom], she was treated by everyone as free." She also recalled the affective ties that their master developed towards Paula. Victoria told the scribe that "she remembered hearing Dona Maria Correa tell Paula, who she loved because she was raised in her household, and was her *mocáma* [sic], that she did not have to serve anyone else." *Mucama*, a Kimbundu word, referenced a domestic servant or slave. She even remembered the name of the ship's captain who transported Paula across the ocean. Some form of communication or news also travelled from Brazil to Angola after Paula's enslavement, because Victoria affirmed that she "heard that the said black Paula had children, and already has grandchildren in Rio de Janeiro, who she understands to be the plaintiffs."

A second person stepped forward, Leonor Vieira, who was also a servant in the same household as Paula decades earlier. Leonor's memory of Paula's freedom was hazy. But she was

⁵¹ Maria Rodrigues et. al. v. Manuel José Rodrigues, 92.

⁵² The following analysis of witness testimony from Angola comes from *ibid.*, 242-261.

able to recall that Paula was freed at her baptism. Leonor offered a key detail in her testimony that would shape debates among lawyers and judges who worked the case over the next decade. She confirmed that the kidnapping happened as it was laid out in the legal suit, but went even further, saying that Paula “was not marked [with a carimbo] because she was a *fusca*, and not totally black.” The implication was that lighter-skinned people of African descent were presumed to live in the port of Luanda, and therefore not to be enslaved in the interior, raising eyebrows about their circumstances to the *inquiridores de liberdades*.

Two more witnesses offered their testimony through the assistance of a court-appointed Kimbundu translator, who also interviewed them in their own homes because of their age.⁵³ Antonia de Paula Rebelo estimated that she was ninety years old, “more or less,” and indicated that she had married Paula’s brother (now deceased) earlier that century. Antonia also lived in the same household as Paula and the other witnesses in Angola. On the matter of Paula’s freedom, she remembered that it was originally conferred by testament, and that Paula was “treated like a free person.” After Paula was enslaved across the Atlantic, Antonia learned that Paula “was sold to a priest.”

A final witness, Mariana Vieira, knew Paula “very well” because they were both raised in the same household. Mariana could speak to Paula’s legal freedom because they apparently both were told of their own freedom at the same time. According to Mariana, Maria Correa “declared to [Mariana] and Paula...that both were free and that they were baptized as free.” However, Mariana and Paula lived under the assumption that “they were slaves before the death of Dona Maria Correa.” After Maria Correa’s death, they both were “treated and reputed free by the same

⁵³ Kimbundu was widely spoken in Luanda and court officials could offer translations for those individuals who could not speak Portuguese. Roquinaldo Ferreira shows that kimbundu “had become part of the linguistic landscape of what was a Portuguese city [Luanda].” Ferreira, 140.

people who lived in the house.” While Paula decided to remain in the same home she was raised, Mariana recalled that she left the house “to enjoy her freedom, and as she is doing to the present.” Mariana concluded by noting that she “heard that Paula had various children in [Rio de Janeiro].”

Whether Paula indicated to her children the names of individuals whom she grew up with, or whether those individuals came forward after a public call for witnesses, their testimony is powerful evidence of the ways in which memory and community could be invoked against the dislocations of slavery and the slave trade. The four women who testified in late 1797 formed part of Paula’s network of kin before her kidnapping, and their recollection of key details surrounding Paula’s sudden disappearance points to Paula’s impact on their own. Perhaps then we should not be surprised to find that the four women who testified not only recalled key pieces of Paula’s life, but that they also heard news of her life in Rio de Janeiro. They learned that a priest purchased her and that she had children. They may have learned even more intimate news, but scribes would have always limited witnesses’ responses to the facts of the case. The testimony also speaks to the often-blurry boundaries between slavery, freedom, and servitude. What seems to be contradictory testimony about whether Paula gained her freedom by baptism or testament is reconciled by Mariana Vieira, who revealed that they themselves only learned of their freedom at Maria Correa’s death. In short, the four witnesses took part in the litigation of Paula’s descendants and offered key evidence.

Nowhere was the contribution of their testimony clearer than in Leonor Vieira’s brief reference to the absence of a branding on Paula. Africans who moved through Luanda’s port would, in theory, have been marked with a branding (carimbo) of the king’s image or with the crest of licensed slave traders.⁵⁴ Until that point was raised by Leonor in Angola, the court record

⁵⁴ On the broader political implications of branding, see Bryant, *Rivers of Gold, Lives of Bondage*, chapter two.

in Rio de Janeiro made no mention of the branding on Paula's body as possible evidence of Paula's freedom. When the witness testimony was sent back to Rio de Janeiro, Maria, her family, and their lawyers must have realized this was an important point that might have gone overlooked by the fact that they were born in Brazil and did not experience the slave trade themselves.

Just as the final pieces of evidence were entered into the court record before the judge's final ruling, Maria Rodrigues petitioned Rio's judicial authorities to perform an examination of Paula's body.⁵⁵ She asked them to look for any scars that Paula might have on her chest or her arms, where such brandings would customarily be placed. Scheduling conflicts and Paula's illnesses delayed the examination for three months. On May 14, 1802, at nine in the morning, Paula presented herself at the residence of Rio's head magistrate (ouvidor). Two of the city's notaries inspected her upper body. They noted that "she did not have the *carimbo* of the King or of any other persons on her chest, arms, or other places where they place the brand."⁵⁶ In the entirety of the court record, from 1794 to 1811, this is the only time Paula formally appears. She was the subject of a long legal dispute, but she only presented herself to prove the absence of the *carimbo*. We cannot know what went through Paula's mind as she was inspected for marks of a so-called legitimate enslavement. That she agreed to the examination suggests that she herself recognized that the absence of a *carimbo* would help the claims of her descendants. In a way, Paula, or more precisely, her body, became the final witness in the case. The judge recognized as much years later, in his final ruling, when he called *carimbos* "a public witness of slavery."⁵⁷

⁵⁵ *Ibid.*, 397.

⁵⁶ *Ibid.*, 399-399v.

⁵⁷ *Ibid.*, 436.

The Burdens of Proof and the Long Life of Appeals

The witness testimony collected in Rio de Janeiro and Luanda supported the claim that Paula was publicly reputed as free and that she protested her enslavement. It also raised the crucial question of whether Paula showed the mark of a carimbo, which the judge found she did not. But Aguida Caetana da Silva, as the defendant to the suit after her husband's death, and her attorneys did everything in their power to weaponize the witness testimony against the slaves. The most striking way this was done was through snide and discrediting remarks written in the margins of the testimony. Whoever left such marks was undoubtedly on Aguida's side, but they left no signatures or identifying information. For instance, the first witness to testify, João de Sousa Franco, claimed to know that correspondence from Angola sent on Paula's behalf was deliberately covered up by her master. A comment to the right of Franco's name accused him of being Maria's lover (*amásio*) and claimed he was the one who convinced her to sue her masters.⁵⁸

Next to the name of every witness in Rio de Janeiro who was of African descent was written "mal," or bad. When Teodora Maria de Jesus recalled that a piece of information was recounted to her secondhand by another slave, she was discredited in the margin with the following: "she heard it from a black slave woman." This implied that the information was less reliable. When Anna Pereira offered a considerably more truncated version of events than other witnesses, the individual wrote sarcastically "this black woman is really convinced [of Paula's] freedom." In the margins of Tomásia Maria's testimony it was written that "this black woman does not know how to speak." In Aguida's closing statements, her lawyers continued their attacks on witnesses of African descent, questioning their testimony because of their supposed "defective quality."

⁵⁸ *Ibid.*, 232.

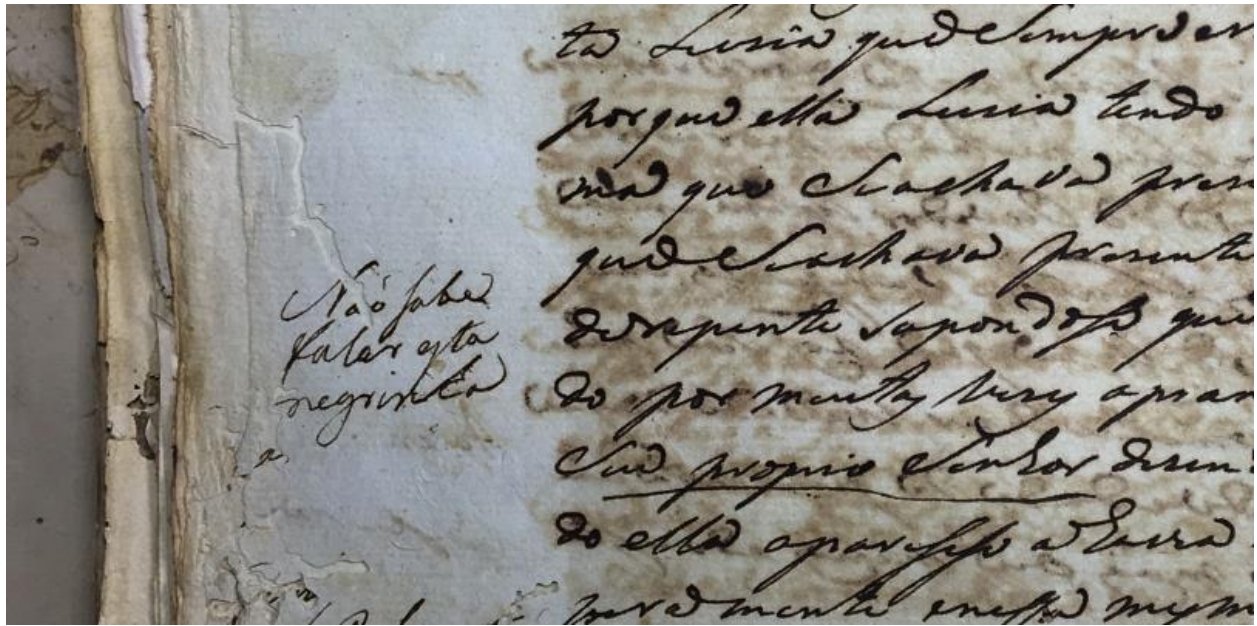


Figure 5.1: “Não sabe falar esta negrinha.” [“This black woman does not know how to speak.”]

On September 12, 1803, after nine years of maneuvering, appeals, counter appeals, and gaps in the public record, judge José Albano Fragoso offered a ruling on the case. He found in favor of Paula’s descendants, determining that they had adequately proved that Paula was a freed woman in Angola before her enslavement. Compared to other judicial sentences, which often ranged from a few scribbled words to several succinct sentences, Fragoso offered a relatively longer opinion. At the heart of his opinion was the legal question of how individuals subjected to enslavement could prove their freedom. The sides of the case were split on whether witness testimony could be adequate proof of legal freedom, or whether paper proof was necessary. In their closing argument, Aguida’s lawyer insisted that the testimony from Rio and Luanda was tainted by the “quality” of the witnesses, as well as inconsistencies in their stories. Fragoso determined that paper proof, or a “contract” as he called it, was credible evidence, but he believed that witness testimony could not be dismissed as irrelevant. He noted that “Roman emperors admitted all types of evidence in favor of freedom.”

Fragoso was further convinced of Paula's freed status because her body lacked the scars of a carimbo. As already mentioned above, Fragoso called the carimbo a "public witness of slavery," and as such, "the consequence is freedom in those who do not have it." To support his point, Fragoso addressed Leonor's testimony from Angola. He corrected her, saying that even "fuscus," or lighter-skinned individuals, would be marked with a carimbo. On this point, Fragoso concluded that the absence of the carimbo "proved [Paula's] freedom."

Considering the evidence before him, Fragoso determined that Paula was freed before her kidnapping. The implication, then, was that her descendants in Rio de Janeiro were born free individuals. "Therefore, I find the plaintiffs free, and condemn the defendants to their salaries since the beginning of the suit," Fragoso wrote. Although Paula's descendants had requested back pay since they each respectively turned the age of seven, Fragoso sympathized with the defendants, ordering Aguida only to pay the salaries that accumulated over the nine years of litigation. Besides the issue of the salaries, Fragoso accepted all the other key claims laid out by the enslaved plaintiffs and their lawyers.⁵⁹

Not surprisingly, Aguida Caetana da Silva did everything in her power to exhaust the avenues for appeals. As the head of her household, she likely recognized that most of her wealth was derived from her ownership of the very slaves who were now freed by the courts. A first appeal appeared in July of 1804. This lengthy appeal continued an attack on the validity of the witness testimony offered in the suit. Aguida's lawyers also assembled a group of experienced slave traders who collectively signed a statement addressing the issue of the carimbo. In their experience, they wrote, the marks and scars of a carimbo would disappear on black skin with the passage of time. What is more, they attested that it would be impossible for a freed person in

⁵⁹ Ibid., 435-436v

Luanda to be enslaved.⁶⁰ The appeals process moved slowly, with two years passing before judges of the *Relação* offered their ruling. They upheld Frago's sentence.⁶¹ Aguida appealed a second time in 1806, and again the *Relação* upheld Frago's sentence a year later.⁶²

It was in 1809, just after the Portuguese court was transplanted to Rio de Janeiro, that Aguida experienced success with her appeals. When her second appeal to the *Relação do Rio de Janeiro* was denied in 1807, she began the arrangements for an appeal to the *Casa da Suplicação* in Lisbon, the empire's highest appeals court. The arrangements were simplified when the *Casa da Suplicação* appeared in Brazil, not far from her residence. In the handful of appeals exchanged by both sides, many of the arguments offered by both sides of the litigation remained the same. But now, before the *Casa da Suplicação*, the case was read under new legal and political circumstances. The *Casa da Suplicação*, for the first time in six years of the appeals process, broke from the prevailing interpretations of Paula's case by the city's judges. The opinion of the magistrates of the *Casa da Suplicação* offered a diametrically opposed reading than that of previous judges. Both the witness testimony and the absence of the *carimbo*, in their view, did not suffice as proof that Paula was originally freed in Angola. They reasoned that "one can only pass from an original state of slavery...to freedom by the intervention of some act." Without paper evidence of that intervention, or manumission, Paula could not be considered a freed person in Luanda.⁶³

After six years of living as free people, as well as defending their freedom against Aguida's appeals, Paula's descendants suddenly faced re-enslavement. Between 1809 and 1811, they launched three appeals against the *Casa da Suplicação's* ruling. Each appeal was denied, and the decision for them to return to slavery was upheld. Although the court record becomes considerably

⁶⁰ *Ibid.*, 435-435v.

⁶¹ *Ibid.*, 467-471v.

⁶² *Ibid.*, 486.

⁶³ *Ibid.*, 513-516.

thinner in these final years, we glean that Paula's descendants were reluctant to return to Aguida's residence. Aguida petitioned the Casa da Suplicação, complaining that she "did not have news" of certain individuals or their whereabouts, and feared some already departed "fora da terra," or away from the land. There was no indication that the Casa da Suplicação was prepared to reverse its own decision to return Paula's descendants to slavery, but Aguida also recognized that her power hung by a thread. The sixteen year suit concluded with a signed statement from Aguida promising not to practice *sevícias* against her slaves if they returned to her. Importantly, she also agreed to sell any individuals who no longer wished to serve her.⁶⁴ On July 6, 1811, the appeals avenue was finally exhausted, and the court record abruptly ends.

The long life of the appeals process proved devastating for Paula's descendants. They probably expected Aguida to appeal Fragoso's decision in 1803, but the sudden reversal of their freedom six years later undoubtedly came as a shock. Still, even if they confidently believed that their freedom would be upheld by higher appeals courts, the threat of re-enslavement was always present. Magistrates of the Casa da Suplicação applied a strict reading of Paula's case that abstracted her experiences from the social reality that many slaves lived with: promises of freedom, hidden baptism registers, and the blurry lines between domestic servitude and subjection to enslavement.

The fate of Paula's descendants is unknown. After three unsuccessful challenges to the ruling of the Casa da Suplicação, in 1812 they pursued the final avenue that was available to them: a direct appeal to the crown. In a petition to prince regent João VI, now residing in the city where they had spent the better part of sixteen years pursuing litigation, Paula's descendants collectively presented themselves as "humble vassals" of the crown. They narrated the story of their mother,

⁶⁴ *Ibid.*, 547.

Paula, “of the Angola nation, from which she came free and owner of herself [senhora de si], and here was falsely sold as a slave.” Their petition revealed that they had been sold to new owners when “rich and powerful persons” overturned the freedom they gained in 1803. This indicates that they preferred to switch owners rather than return to Aguida’s dominion. Nine of the male family members were said to have joined the Henriques, or the local militia of color, suggesting they remained in Cachoeiras de Macacu. However, “they did not have the honor of serving your royal highness” because they fled into the forests for refuge. The petition caught the attention of João VI, who asked his police intendant to conduct a thorough investigation into the matter. But like so many crown-ordered investigations, there is no identifiable outcome.⁶⁵

Conclusion

In the final analysis, the sixteen year legal suit brought by Paula’s descendants concluded with a reality that enslaved and freed people throughout the South Atlantic world knew all too well: that paper proof was everything. When enslaved people engaged with colonial authorities, court officials, and notaries, they recognized that the records generated through such encounters were the very materials that reproduced the law in the everyday life of colonial subjects. To be sure, paper proof was not an objective artifact. When Aguida Caetana da Silva managed to retrieve a copy of Paula’s baptism record, even the description of Paula’s legal status left some room for debate about whether the priest declared Paula free or enslaved. But the records at least allowed for that debate. Paula and her descendants were quite aware of the power that such paper evidence

⁶⁵ The petition from Paula’s descendants is discussed in Kirsten Schultz, *Tropical Versailles: Empire, Monarch, and the Portuguese Court in Rio de Janeiro, 1808-1821* (New York: Routledge, 2001), 171-171. Direct quotes are taken from Schultz’s partial transcription of the petition included in Kirsten Schultz, “‘Tropical Versailles’: The Transfer of the Portuguese Court to Rio de Janeiro, Monarch and Empire (1808-1821),” Ph.D. Diss., New York University, 1998, 396-398, n. 66.

could provide. During Paula's first few decades living in Brazil, those who knew her remembered that she put in an extraordinary amount of effort to communicate with people in Luanda who could provide proof of her freedom.

But Paula's life in Luanda mirrored the lived experiences of people of African descent throughout the Atlantic world. As was so often the case for enslaved people—whether by conditional manumission that made freedom contingent on continued servitude, through the informal obligations of living as an *agregada*, or by verbal promises of freedom made before slave owners' death—Paula lived in a grey area between servitude, slavery, and freedom. Opponents of Paula and her descendants pointed to inconsistencies in witness testimony, some who claimed Paula was freed by testament, others who claimed she was freed by baptism. But these accounts were not mutually exclusive. As one witness in Luanda recalled, Paula's free birth was hidden from her until adulthood, and a promise was made before the death of her master that she would never serve anymore as a slave. This explains why witnesses in Rio recalled that Paula requested her birth certificate from Luanda, even though she apparently told people she was freed at the death of her master. If Paula did not pursue the more customary avenue of notarizing her freedom, it is probably because she firmly believed that her birth certificate, along with her reputation as freed, would suffice as protection.

In the absence of definitive written records discerning one's freedom, enslaved people and their allies worked to create other kinds of evidence. They mobilized bonds, connections, and memories generated within their communities to demonstrate that individuals were treated as freed. Every woman who testified on Paula's behalf in Angola affirmed that she was reputed a freed woman. One of those women, Leonor Vieira, even changed the course of the suit when she indicated that Paula was never marked with a *carimbo*. For litigants and their allies, inscribing the

voices of witnesses to freedom within the court record made legible a complex social experience of broken verbal promises, hidden baptism registers, social reputation and identity, and marked and unmarked bodies.

CONCLUSION

Enslaved Peoples' Judicial Knowledge and Colonial Power

By way of this conclusion, I would like to offer several closing reflections on the lives and experiences discussed in this dissertation. In writing social histories around the law, “Freedom’s Edge” has excavated enslaved peoples’ experiences and confrontations with the courts, the appeals system, and Portuguese monarchs. The two key arguments of this dissertation—that being freed and being free were not the same thing, and that enslaved people powerfully contributed to shaping law in the South Atlantic—has been sustained by close, granular readings of individual cases that appear, on the surface, exceptional. When these individuals from throughout the South Atlantic world are brought together into one analytical frame, we are encouraged to set aside presumptions about their exceptionality and instead to think more deeply about their interconnectedness. As such, I have weaved together stories of future libertos, Atlantic exiles, maritime fugitives, and royal petitioners into one view of the South Atlantic world that they inhabited and that their judicial knowledge helped to shape.

Enslaved people sought their manumission for different reasons. Some wished to escape violent masters. Some perhaps felt that being freed offered greater opportunities for social ascendance. Others wanted to free members of their family and community. To be sure, some, like the enslaved woman Teresa whose freedom was won on her behalf without her knowing, chose to remain in slavery. Yet, whatever their reasons might have been, their experiences intersected when they stepped into the presence of notaries, asked a procurador to draft a petition, or presented themselves before a judge. They shared a broad understanding of the law as both a force of power that legitimized their enslavement and as a site at which to make broader claims about what constituted a fair enslavement, what violated a fair enslavement, and what the resolution to that

violation should be. Those who engaged with the courts, like Joana Correia and Paula's descendants, realized that the law brought both insecurity and opportunity. If one already feared or lived with *sevícias* before litigation, they recognized that the protracted process of working within the courts engendered new insecurities or aggravated existing ones. My analysis has shown that we cannot reduce these procedural negotiations to attorneys or *procuradores*. By looking at social experience during the process of litigation, we can better understand how the levers of the courts (and the Portuguese Court) could be pulled to affirm customary rights, to provide protections, and to create autonomy for litigants.

Understanding that this broad thing we call the "law" was shaped by the sovereign's will, many litigants and petitioners brought their claims straight to the source, or forum shopped their claims within both the courts and the Portuguese court hoping that one avenue would be successful. The 1761 decree is instructive as both a law whose meanings were shaped from below and as a law that symbolized a larger dynamic of monarchical empire. As enslaved people travelled to Portugal as servants, sailors, and fugitives, they brought claims for legal freedom directly into the heart of the empire. They expressed an awareness of the political geographies of empire wherein Portugal, the seat of the crown, represented free soil. Portugal was free soil because the crown was there, enslaved people noticed. In their claims-making on free soil, enslaved petitioners widened the scope of the 1761 decree, refracted its meanings, and found receptive monarchs who listened to claims, and often answered pleas for freedom in the affirmative. For enslaved people, especially the many who never set foot in Portugal, the 1761 decree represented royal power, and by extension, the relationship between freedom and royal power. This was evident when enslaved people in Rio de Janeiro sang about their emancipation with the court's arrival.

Enslaved people not only interpreted and refracted the meanings of royal power; they also used it to help enforce custom and make law. They perceived the deeper antagonisms between their status as person and property, the so-called “direito de propriedade” of slave owners, and the crown’s authority. Within the Brazilian historiography, the genealogies of laws or customs during the colonial period involving slavery and manumission have rarely been explored in-depth. When scholars have discussed the meanings of individual laws, such as the 1688 decrees, they have often stressed the roles of elites and reformers.¹ Without losing sight of the social and political influence of these elites and reformers, my analysis throughout the dissertation has pointed to the contributions of individual enslaved petitioners, litigants, and intermediaries who, when viewed collectively across space and time, leave us with a new picture of how laws and customs were made throughout the empire.

The case of Marcelina Dias Silvestre speaks volumes to this. We may never know more about her life than what colonial authorities told us in their correspondence about her freedom. But for other enslaved people in her time and long after, she figured as a powerful precedent for the kinds of limits that could be placed on slave owners’ power. Exactly one hundred years later, petitioners from Maranhão prompted João VI to pass a decree facilitating their self-purchase. This important but short-lived decree could not have come into being without other enslaved petitioners from across Brazil who also sent their appeals to the metropole.

One productive and novel way to capture engagements with and understandings of the law is by setting aside a search for unmediated “voices” in the legal record and instead to inquire into enslaved peoples’ material encounters with the law’s institutions and representatives. By looking at the kinds of records slaves asked others to generate, as well as the way they preserved those

¹ Rafael de Bivar Marquese, *Feitores do corpo, missionários da mente: Senhores, letrados e o controle dos escravos nas Américas, 1660-1860* (São Paulo: Companhia das Letras, 2004).

records in their own possession and in notary books, we are better able to understand how enslaved people viewed the society they inhabited. They viewed a society in which discrepancies in the price paid for manumission or just having a common name listed on a ship manifest could undermine their legal freedom. Paper proof had a particular value. Legal freedom as a status was made through the production of records and archives. But we should not conflate the wide and rich meanings of freedom with either agency or paper. Rather, this dissertation has shown that enslaved people moving from slavery to freedom recognized that a legal status of being freed was made within the legal and public record. To live the lives they wanted to, whatever that might have meant, they needed degrees of protection in a society built on their own subjugation.

The case of Maria Conga reinforces this point. Sometime in late 1802, she decided to run away from her master's plantation in a rural region of Rio de Janeiro. Twenty months later, a man named Pedro appeared at the door of Maria's master claiming to be her brother. Pedro offered four *dobras* (51\$200 *réis*) to Maria's master in exchange for her freedom letter. The offer was accepted, and, with that exchange, Maria secured a piece of paper that she implicitly acknowledged helped to protect her as she lived outside of her master's dominion. Even after twenty months, she must have sensed that a freedom letter was needed, and that her master might have accepted money out of exhaustion in trying to track her down. Whatever freedom might have meant to her—finding autonomy in the city, finding natal kin or creating new kinships with individuals like Pedro—she could not escape the fact that at any moment she could be reduced to slavery.²

Although freedom letters were paramount proof, enslaved people asked deeper questions about what counted as evidence. They asked these deeper questions because they inhabited a world in which slave owners, notaries, and officials acted inconsistently, and sometimes more frankly,

² ANRJ, PON, Liv. 191, 97v-98.

cheated the system. Thus what worked in one case seldom worked in another. They also lived in a society where slave owners lied about birth certificates, broke verbal promises of freedom, and sold their slaves south to Rio Grande do Sul. Thus enslaved petitioners and litigants asked: could legal freedom be witnessed? Did one's body stand as evidence of freedom if it lacked a *carimbo*? Could someone be reputed free? Was a baptism record proof of legal freedom? Answers to these questions varied. For Paula and her descendants, both a local and a higher appeals court upheld that Paula's body, as the "public witness" of slavery and freedom, along with the witness testimony from both sides of the Atlantic, proved her freedom. Yet, the Casa da Suplicação, taking a completely opposite stance, ultimately overturned that.

Recall other cases discussed throughout. When Felipe da Fonseca Araújo sued his master for infractions on his rights as a future liberto, he asked the courts to consider if one could be reputed freed even though they were conditionally manumitted. Some who travelled to Portugal used their absence on ship manifests to prove they were not sailors, but instead servants. Thus, they circumvented revisions to the 1761 decree excusing sailors from enjoying the law. There is also the more puzzling and frustrating case of Boaventura, the enslaved sailor from Mozambique who won his manumission in the Indian Ocean, was re-enslaved in Rio de Janeiro, and later sold to Rio Grande do Sul as punishment. In Rio Grande do Sul, he encountered the very governor who freed him a decade earlier on the other side of the world. Boaventura secured a signed statement from that governor affirming that he was indeed a freed man and that the governor was the one who executed the freedom. In the final analysis of Rio's police intendant, not even this signed letter by the crown-appointed governor who conferred the manumission sufficed. On the one hand, it is a remarkable indication of enslaved peoples' legal savvy that they built and curated a record of their freedom out of witnesses, social reputation, and signed statements. Indeed, we may never

know how Boaventura secured a ship manifest with his name on it from the other side of the world to attach to his petitions. On the other hand, that this proof was discredited, as was all too often the case, highlights both the broader forces and the individual subjectivities of authorities that worked against enslaved people.

My analysis has emphasized processes over outcomes. I have looked at how petitions were generated, how suits were initiated, letters of freedom made and remade, and how enslaved people protected themselves during protracted litigation. Nevertheless, it is important to reflect on whether we can discern patterns or variables in the legal actions of the enslaved or among those who judged their claims that led to either successful or unsuccessful outcomes. At the highest level of the empire, monarchs exercised their power in judging requests for manumission by grace. Monarchs listened to their councilors, but they often shut out their voices and based decisions on how they might bolster their image of themselves as powerful but merciful. Petitions by slaves from Brazil were sent to monarchs throughout the eighteenth century, but individual reigns appeared more open to hearing enslaved petitioners. Pedro II (1683-1706), for instance, attended to petitions from Brazil and affirmed privileges to Lisbon's brotherhoods to intervene in the exile of slaves from Portugal. One century later, the Prince Regent João VI also attended regularly to petitions (first in Portugal, and then in Brazil after 1808) and granted requests for grace from petitioners in Brazil or fugitive slaves who made it to the metropole's shores. It is during these two reigns that we find an abundance of requests for manumission by grace. From the Atlantic world, enslaved people were attuned to sympathies expressed by some monarchs, and thus believed they could successfully invoke the crown's power to become freed vassals.

If enslaved people could sense that certain monarchs were more open to appeals, their ability to assess colonial authorities and judges proved more challenging. Colonial authorities often

gave the impression that they resented monarchs who listened to the pleas of slaves. They took it upon themselves to discredit claims from slaves. When monarchs did not offer an immediate affirmative decision on a petition, they ordered local officials to investigate. Ultimately, an order to “investigate claims” equated to declining the petition. Colonial authorities did not consistently follow through with investigations, and if they did, they usually replied by defending slave owners. Recall that Paula’s descendants waited two years for a judicial review between 1812-1814, but no movement was made. Judges, too, proved a difficult group to read. Over the course of litigation, new judges might assume posts in Brazil. During the protracted litigation of Paula’s descendants, at least three different judges presided over their case in the span of one decade.

One variable can be observed that also speaks to the meanings that enslaved people gave to *sevícias* over the course of one century. After the 1688 legislation and its widening by enslaved petitioners like Marcelina Dias Silvestre, almost every appeal for freedom included some reference to *sevícias*. Enslaved people deployed creative arguments for freedom based on a shared understanding of the law, but they almost always cited *sevícias* as either a primary or secondary justification. Over the eighteenth century, enslaved people made *sevícias* a powerful reference point for a broader set of limited rights and protections afforded to them and recognized by the law. A brief example will illustrate this point.

When petitions from slaves increased in the first decade of the eighteenth century following Marcelina Dias Silvestre’s appeal, it was common for colonial authorities to complain to the king that her precedent would lead other slaves to make false allegations of *sevícias* to claim their manumission. In effect, they saw such allegations as illegitimate. Nearly one century later, the viceroy commented on an appeal from an enslaved man known as João Mina, who invoked a “holy law” of manumission. The viceroy commented that there existed no law obliging slave owners to

free their slaves. Yet he also wrote that had José Mina alleged *sevícias*, “maybe this claim could be taken seriously.”³ An allegation that officials once worried about in the early eighteenth century had one century later become so embedded in custom that Rio’s viceroy noted its absence. Here is a clear example of the power of enslaved peoples’ claims-making over the eighteenth century.

The individual reigns of monarchs, the imperatives of colonial and judicial authorities, and the presence of *sevícias* help us discern some of the variables that, if nothing else, moved one’s appeal to the next stage. I believe that even with these broadly discernible variables and patterns, the cold reality for most enslaved litigants was contingency and inconsistency. There was nothing guaranteed about using the law to achieve one’s manumission. For some, there was no amount of evidence that could be compiled to prove freedom.

But here is where we must conclude, balancing our assessment of the extraordinary actions of litigants and petitioners in the South Atlantic world with the forces of colonial power. In the archive, time and again, we find judicial investigations with no outcomes, denied petitions, court records that abruptly end, and enslaved people exiled or banished despite their efforts against it. We also find some slaves who made it to Portugal’s shores as fugitives who gained their manumission, others who were sent back to Brazil as slaves. For all of the precedents they invoked and for all of their legal savvy, in the final analysis, the contingencies of life and freedom in the South Atlantic world tipped the scales of power away from enslaved and freed people, ensuring that even when they did influence the legal landscape, it always met its limits against colonial power. This sobering conclusion, available to us from the records generated by the enslaved of their own legal struggles, helps us better understand the view from freedom’s edge in the South Atlantic. For some, freedom’s edge meant never reaching freedom. For others, freedom’s edge

³ ANRJ, SEB, cód. 69, vol. 11.

meant living with the reality that the distance from freedom to slavery was considerably shorter than the distances they travelled from slavery to freedom.

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APPENDIX A

Map of Guanabara Bay and Surrounding Parishes, 1767



Source: Manuel Vieira Leão, “Carta topográfica da capitania do Rio de Janeiro,” Adapted and Published in 1911 by the Instituto Histórico do Rio de Janeiro from the original in 1767. Biblioteca Nacional do Rio de Janeiro, ARC.011,09,009 - Cartografia

APPENDIX B

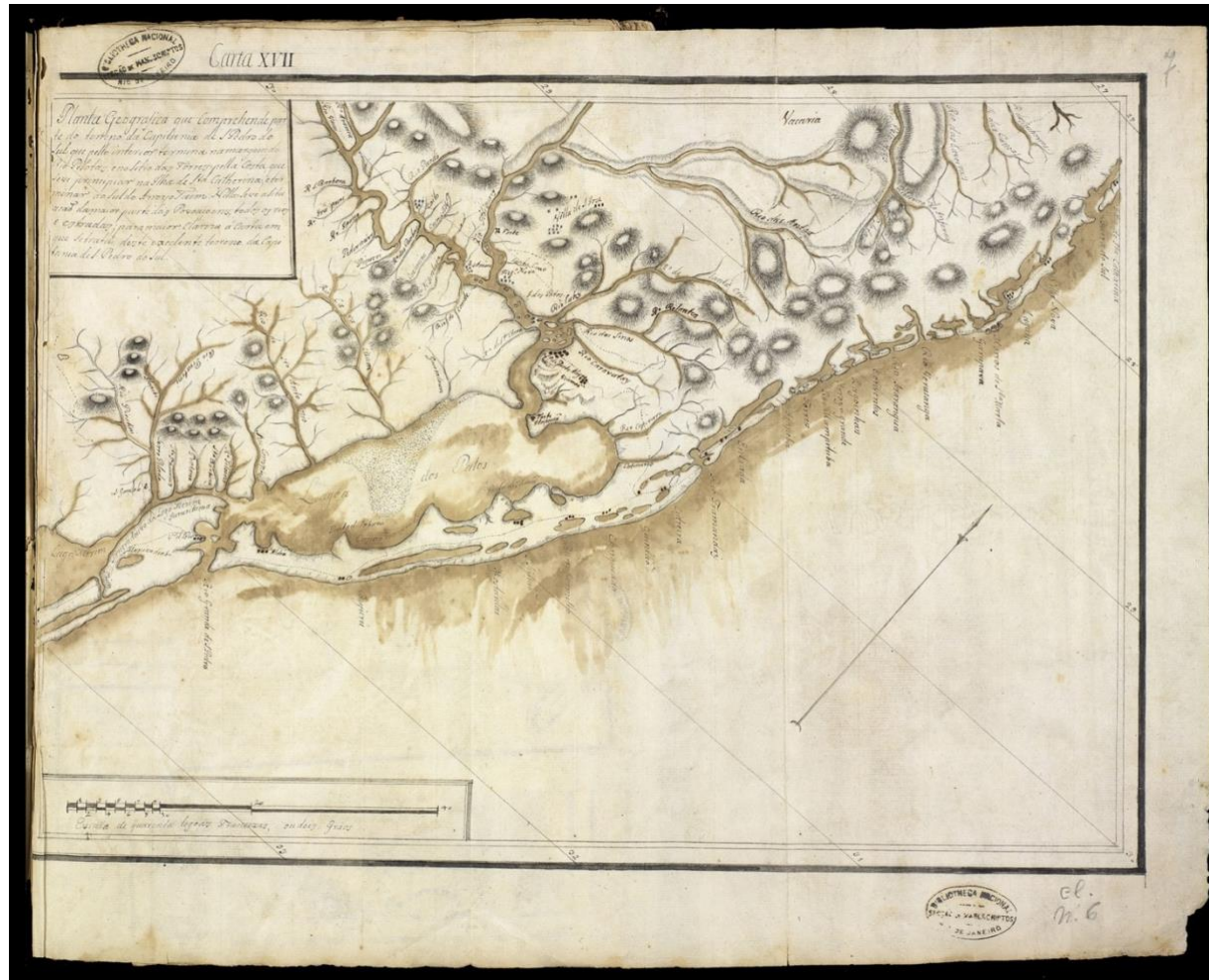
Map of Urban Rio de Janeiro, 1791



Source: Francisco Antonio da Silva Betancurt, “Plano da cidade do Rio de Janeiro elevado em 1791 oferecido ao Ilmo. Senhor Concelheiro Luis Beltrão de Gouveia de Almeida chancellor da rellação desta cidade,” Biblioteca Nacional do Rio de Janeiro, ARC. 026,05,041-Cartografia

APPENDIX C:

Map of Rio Grande do Sul, 1801



Source: Luís dos Santos Vilhena, “Planta geografica que comprehende parte do terreno da Capitania de S. Pedro do Sul...” Biblioteca Nacional do Rio de Janeiro, 50,05,014 – Manuscritos

APPENDIX D:

Glossary of Terms and Institutions

acordão – a judicial sentence from an appeals court like the *Relação do Rio de Janeiro* or Casa da Suplicação

advogado – attorney

agregada/o – household dependents

alforria – manumission

alvará – royal decree

aviso – royal order from Portugal's Secretary of State in the name of the crown

boçal – unacculturated African in Brazil

carta régia – a royal order addressed to a specific authority or tribunal expressing the will of the crown on a particular matter

carimbo – the brand given to Africans before they boarded slaving vessels

Casa da Suplicação – high appeals court in Lisbon, and transferred to Rio de Janeiro in 1808; only after appealing first to the *Relação* in Bahia or Rio de Janeiro could an appeal be made to the Casa da Suplicação

compromisso – the charter of a Catholic brotherhood

Conselho Ultramarino – Portugal's Overseas Council, based in Lisbon, charged with the administration of the empire

consulta – an opinion drafted by members of the Overseas Council (*Conselho Ultramarino*), usually regarding a petition from the empire

criada/o – domestic servant

crioula/o – a term typically used to describe a person born in Brazil to African parents

depósito – deposit; the term referred to removing and place property or persons into the custody of a third party

direito de propriedade – rights in property; invoked by slave owners to discuss their rights over enslaved people

degredo – exile

dobra – monetary unit equaling 12\$800 réis

escrava/o – slave

fiança – financial bond or security; often used to describe bonds set during litigation (e.g., fiança da pessoa, or personal bond)

forra/o – freed person

irmandade – lay Catholic brotherhood

juiz de fora – crown-appointed judge

justificação – a legal instrument in which witness testimony was recorded to prove or dispute claims in a petition or legal suit

liberta/o – freed person

livre – meaning free, as distinguished from freed

meação – one-half of a married unit's estate; by law, husband and wife were entitled to one-half of their estate

meios-ordinários – established legal channels, such as the courts

meios-extraordinários – exceptional channels for claims-making, such as petitions for royal grace

missas – masses

ouvidor – a crown-appointed magistrate

pardo – brown; a mixed-race individual usually with African heritage

patrona/o – meaning patron or master; also used by some former slaves to describe their former masters

preto – black; the designation often reserved to describe Africans

procurador – procurator, or legal representative

Relação do Rio de Janeiro – one of two appeals court in Brazil, created in 1751

requerimento – petition

resolução – resolution; a decision handed down by a monarch based on a consultation (*consulta*) from the Overseas Council

revogação – revocation

senhor – master or lord

sevícias – excessive violence, punishment, or cruelty against a slave, a social inferior, or a dependent

terça – one-third; used to describe one-third of a testator's estate to be allocated as they wish (e.g., masses, donations, gifts)

viuva/o – widow