

As Slaves and Not Vassals: Interethnic Claims of Freedom and Unfreedom in Colonial Peru. *Como esclavos y no vasallos: reclamaciones interétnicas y no libertad en el Perú colonial*. Karen Graubart. Población & Sociedad [en línea], ISSN 1852-8562, Vol. 27 (2), 2020, pp. 30-53. DOI: <http://dx.doi.org/10.19137/pys-2020-270203>. Puesto en línea en diciembre de 2020.

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Población
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revista de estudios sociales

As Slaves and Not Vassals: Interethnic Claims of Freedom and Unfreedom in Colonial Peru

Como esclavos y no vasallos: reclamaciones interétnicas y no-libertad en el Perú colonial

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Abstract

Across much of the Spanish empire in the Americas, indigenous and African-descent peoples lived in close contact. The entangled nature of labor, both in urban centers and on massive complexes, gave them the opportunity to measure themselves against one another. Law that developed across the sixteenth and seventeenth centuries suggested an eventual clarity about their separate conditions, but experience revealed the muddiness of both definitions and enforcement. Indigenous and Black subjects used those colonial discourses about freedom and hierarchy to understand their own positions and to argue for comparable protections and privileges. Rather than consider indigenous and Black lives separately, the essay argues for a more integrative approach to reading legal documents produced by and about them.

Keywords: slavery; freedom; labor; law

Resumen

En gran parte del imperio español en América, los indígenas y afrodescendientes vivieron en estrecho contacto. La intrincada naturaleza del trabajo les dio la oportunidad de medirse unos contra otros, tanto en los centros urbanos como en los complejos masivos. La legislación de los siglos XVI y XVII sugería una eventual claridad en la diferencia de sus condiciones, pero la experiencia reveló que había confusión entre ambas definiciones y sus aplicaciones. Los indígenas y negros utilizaron esos discursos coloniales sobre libertad y jerarquía para entender sus propias posiciones y exigir protecciones y privilegios similares. Más que considerar las vidas de indígenas y negros por separado, este ensayo propone una lectura integradora de los documentos legales producidos por y sobre ellos.

Palabras clave: esclavitud; libertad; trabajo; ley

In the late seventeenth century, four enslaved men wrote to the Council of the Indies in Spain from a Lima jail where they were being held for their roles in a riot or uprising at their master's *obraje de sombreros*. They requested sale to a new master, on the grounds that conditions at the *obraje* were unbearably

violent. Those requests failed and they were returned to his hands, where the four joined forces, likely with the aid of someone with legal training, to make a more significant demand. Juan Pasqual, Blas Manuel, Domingo López and Juan Francisco de Estela called themselves "pardos [mulatos] esclavos naturales de esta ciudad de los Reyes del Peru", claiming descent from enslaved African or Black mothers and free Spanish fathers.¹ The *memorial* is a compact attack on various aspects of the institution of slavery: the men "ordered that you [the king] restore the liberty that you have taken from [all *pardos*] for more than one hundred and fifty years". They required not only their own freedom, but that of all "*pardos* and *carterones* that were born in this kingdom".²

The petitioners made arguments ranging from well-known assertions that the African slave trade was inherently illegal under the terms of "just war" to more radical claims that their paternity -all were the illegitimate sons of free Spanish men- rendered them free men. A more original and controversial argument hinged on an explicit comparison between the monarch's Black and indigenous subjects. By the time they filed their last *memorial* in 1681, a century of legislation had constituted the "Indian" as a free, mobile, tribute-paying vassal of the crown who could not be enslaved, sold, or forced to work without pay. The men claimed that they should enjoy the same status as did Indians, citing two royal *cédulas* which they partially copied into their own documents.

The first *cédula*, issued in 1609 by Felipe III, called for an end to *servicio personal*, unpaid and often permanent bonded labor, for indigenous natives of the Americas.³ Widespread and exploitative Indian "service" was an effect of many things: the assumption of settlers and officials that they had an inherent right to household servants, the addition of a labor draft (called *mita* in Peru) to the tribute requirement for all indigenous communities, the extension of mining labor demands beyond the limitations of *mita*, and the power imbalance that allowed Spaniards to underpay or not pay indigenous laborers in a variety of situations. The *cédula* concluded by noting that its immediate prohibition of free labor to industries like textile *obrajes* and mining, and the removal of personal servants from the households of government and ecclesiastic officials would "produce some discomfort for the Spaniards, [but] the liberty and survival of the Indians weighs heavier...". The petitioners had this paragraph copied and notarized, and excerpted its final words twice in their letter, "pesa más la libertad", as a kind of talisman. They demanded that the requirement that Indians be paid for their labor be extended to the land's African-descent people.

The complainants also included a notarized copy of text from a more recent order, of 1679, wherein Carlos II had finally prohibited the enslavement of Indians in Chile, where Spain was still fighting indigenous resistance to colonial rule, which offered cover for slaving under the terms of just war.⁴ They argued that "because they were also *naturales* of this kingdom, born in Your Majesty's lands, and for that reason your vassals," its protections should

be extended to them as well. The king's *cédula* had directed that "the Indians of my West Indies, Islands, and Mainland of the Ocean Sea, cannot be held as slaves for any reason or under any pretext, but must be treated as my vassals...".⁵ The four *pardo* men concluded that, since slavery and coerced servitude were now both unlawful for natives of the Indies, they and all other enslaved people born in the Americas should be free.

This line of reasoning was radical because it emerged from a refusal of a clearcut legal distinction between indigenous and African-descent inhabitants of the Americas, which had material consequences. Both groups were situated at the bottom of the colonial social hierarchy, but indigenous peoples collectively had access to protections, resources, and status denied to people of African descent. On the other hand, free people of African descent could sometimes evade the obligations associated with the legal position of Indians, including tribute payment and collective labor. Colonial officials often played the two groups off one another in their legislation, using a binary assessment of their legal conditions as well as their supposed natures as a template for the proper organization of the Spanish American world. A Black/Indian binary propped up colonial governance and Spanish supremacy.⁶ But indigenous and African-descent men and women often lived and worked in close proximity: in urban centers, in households, on *obreros* and agricultural enterprises. That close relationship invited them to understand one another's fate and contemplate their differences.

This essay considers how such shared experiences manifested in the writings and actions of indigenous and African-descent people, especially with regard to the ways that they thought about their own identities and their expectations about how they should be treated. While the groups rarely expressed solidarity, they used one another as a foil or frame of reference, sometimes demanding equal treatment, other times rejecting any comparison. Any analysis of the formation of creole or ethnic identity among peoples of African or indigenous heritage should consider the perspectives forged from the experiences of their close neighbors.

In what follows, I offer a few compelling examples as a way of opening a larger conversation about the ways that indigenous and African descent peoples either claimed fellowship or argued for distinctiveness, by drawing upon the legal framework that separated them in the Spanish colonial world. Despite foundational work by Emile Harth-Terré (1973), Jesús Cosamalón (1999), Kerstin Nowack (2004), and Rachel O'Toole (2012), too often Andean scholars observe non-Spanish members of the empire in isolation when in reality they regularly worked side by side, participated in shared cultural practices, and often lived within the same households.⁷ Indigenous and Black neighbors discussed the news, sought one another's advice to solve problems, boasted about opportunities, borrowed healing practices, witnessed one another's marriages, and complained about inequities to one another. They had sexual relationships, formed families, and raised children together. Occasionally they rose up in solidarity against shared foes. While these may

not always have been central to how they defined their place in the world, indigenous and Black people were part of an integrated system of knowledge that provided ways to measure one's opportunities and accomplishments in a world that was not binary nor naively connected to a distant pre-imperial past. This is not a call to refuse the Africanness of the African diaspora, but to recognize how the entanglement of subaltern peoples helped construct colonial beliefs in the Atlantic world.

Colonial Distinctions

By the late seventeenth century the distinction between people of African and of indigenous ancestry was dichotomous: Africans and their descendants could be subject to enslavement, while indigenous men and women could not; indigenous communities could call upon corporate resources and leaders as well as a collective legal status while people of African descent were denied collectivity. These distinctions had enormous material consequences. For Black subjects, leaving enslavement was costly and difficult, and freedom was generally accompanied by poverty and insecurity. In contrast, indigenous subjects had to pay substantial taxes in labor as well as coin, but they could draw upon resources if they remained attached to rural communities of origin, and legal assistance if they could access it. Both groups (which often mixed, leaving descendants subject to ambiguous obligations) rightly considered themselves exploited and oppressed, albeit in distinct ways. But this dichotomy took a long time to crystalize, and the process through which systems of Black slavery and indigenous collective exploitation came into being reveals how the categories depended upon one another for definition.

After Iberian Christians took Ceuta in 1415, they extended existing direct trade with Africans, which had largely been carried out through Muslim and Jewish middlemen, southward (Green, 2012). In Senegambia, the Portuguese began to directly purchase as well as capture small numbers of Africans. In 1455 the royal Portuguese chronicler Zurara described the expansion of the practice: the cold partition of enslaved Idzāgen men, women, and children, captured for commercial reasons and now weeping at their prospects, into lots to determine the king's share. This dramatic moment of accounting, which Anna More identifies as the beginning of a new necroeconomics, which subsumes the death of some people to the ends of commerce, emerged from a longstanding if unnotable trade that brought enslaved Africans into European markets.⁸

The 1450s marked significant changes in terms of the volume of the trade and its impact on Senegambia and nearby regions (Green, 2012: 78-79). As well, the Catholic church and Catholic monarchs on the peninsula changed the ways they justified it. The previous trade had largely been considered an extension of the Mediterranean trade of war captives.⁹ In 1455, Pope Nicholas V asserted the ex-post-facto rights of some Portuguese travelers to purchase or take by force *guineos* whom they encountered in their interactions on the

continent, explicitly outside of warfare. Those interactions, according to the Pope, led to the conversion of the enslaved captives, rendering an illegal act acceptable (Bennett, 2019; More, 2019). The church did not generally authorize wars for enslavement and conquest in western Africa, but when slaves were the by-products of legitimate interactions (of trade and diplomacy), and would be compensated with conversion, their purchase could be legitimated (More, 2019).

When Cristobal Colón and his small crew arrived in the Caribbean in 1492, they acted in continuity with this African practice. Colón in particular –who had spent time in Madeira on behalf of a Genoese merchant, married a the daughter of one of the island's Portuguese settlers, and then traveled to the Gold Coast and São Jorge da Mina– seems to have perceived his voyage as both the extension of a crusade begun with Ceuta and an opportunity to seize territory from which trade and conquest could follow. During the first and second voyages he took captives, mostly children, to act as translators, as was the Portuguese practice in western Africa, and he returned twice to Spain with a passel of slaves to sell. But he also attempted to set up diplomatic relations between himself (as a representative of the Castilian monarchy) and Caribbean rulers, on the Portuguese-African model. Caribbean natives proved less able than mainland Africans to protect their interests from conquest, due to epidemic disease, unequal warfare, and a variety of political and environmental factors, and the African model gave way to direct colonial rule.¹⁰ Colonial domination and Atlantic enslavement were both foundational to the conquest of the Americas.

While intertwined, the two were not legally identical. Spanish monarchs argued that New World conquests were resolved in most cases via capitulation: Amerindian rulers offered their vassalage to Spanish sovereigns either in fact or by hearsay.¹¹ This caused an eventual conflict, as Spanish monarchs largely agreed that their vassals could not be enslaved. When, in 1500, Francisco Bobadilla presented extensive criminal charges against then-viceroy Colón, among the complaints were Colón's refusal of baptism to many of Hispaniola's natives in order to enslave them. In response to Bobadilla's charges, Queen Isabella reportedly declared "What power does my admiral have to give my vassals away?" (Varela, 2006). She and Fernando clarified their position by issuing permits allowing only Amerindian cannibals to be enslaved: cannibal was a metaphor for those indigenous peoples who refused to capitulate and thus remained at war with Spain. For two centuries that trope would remain alive, justifying slave trade in Indians who remained at the margins of empire.

The legal condition of purportedly free Indians remained ambiguous. As trauma was visited upon indigenous communities, threatening labor practices as well as conversion, monarchs had changes of heart. In August 1530 the monarch Carlos V briefly prohibited any Indian slavery to protect natives, but soon reversed his position in response to indigenous uprisings in Guatemala and elsewhere. His 1542 New Laws also attempted to protect

fragile indigenous communities, limiting the encomienda in an effort to restrain Spanish abuses, and again called for an end to future Indian slavery in most instances. Spanish emigrants in the colonies violently contested the New Laws, and the limited prohibition on Indian slavery was not even promulgated until 1550, but these years marked the beginning of the separation of the category of Indian from bondage. As for the exceptions, the locations of "just wars" remained fluid.¹²

Despite the prohibition of explicit enslaving, the ways that Indians were made to labor veered closely towards bondage. Indigenous communities, as original inhabitants, were entitled to protected collective land holdings. On these they were required to produce tribute for encomenderos, conquistadores rewarded with an income stream from the crown for their service. In practice, however, encomenderos attempted to extract indigenous labor more broadly in domestic service, mining, agriculture, pearl fishing, and all sorts of relationships referred to obscurely as personal service (*servicio personal*). Encomenderos also loaned the Indians assigned to them to others, extending personal service to a wider political community. Cities called upon encomenderos to send gangs of laborers to construct roads, cities, and walls as well as work in agriculture.

The crown responded to these abuses largely through institutional reforms that began to impose new differentiations between indigenous and Black subjects of the empire. In 1516 Carlos V created the office of "Protector de los naturales," naming the Dominican Bartolomé de Las Casas as its first advocate-defensor. Other regional versions of the office followed, mixing the religious and legal natures of the idea of protection (*amparo*) though office holders were not granted legal jurisdiction in Indian matters (Novoa, 2016). Concomitant with this, in the second half of the sixteenth century, Indians as a class were placed in the category of *personas miserables*, people who because of their age (children and the elderly) or circumstances (widows and the destitute) were deserving of protection. In 1571, an ordinance charged the royal *fiscal*, the attorney for the Consejo de Indias, with the "protection and shelter" of Indians "as poor and miserable persons."¹³ By the early seventeenth century, it was settled law that, like minors, the poor, and "rustics," Indians were entitled to use royal appeals courts (*audiencias*) as first-instance courts, to have summary trials, special rules of evidence, and protection from harmful contracts, which meant that Indians could invalidate most contracts after signing. They were also entitled to free legal assistance, and the Protector de los naturales was the enforcer of their status, including representing them in court.

People of African descent did not receive special protections, whether enslaved or free. An impoverished Black person could call upon court-appointed protectors, just as any *desamparado* or defenseless person could. As Michelle McKinley (2016: 4) notes, the Spanish empire employed an "architecture of paternalism," which depended upon a discourse of protection and abjection. But in the absence of a distinct Protector de los negros –an office

that Peru's Viceroy Chinchón considered establishing in the early seventeenth century but never implemented—Black litigants, like any other non-indigenous subject, were dependent upon a system of overworked procurators. About twelve served the entire audiencia of Lima at any given point.¹⁴ McKinley (45) suggests that the large number of complaints whose paper trail ends at the point of naming a procurator reveals a legal triage: the courts refused shaky cases, many of which were resolved without trial. Even with a free lawyer, costs could be substantial for impoverished litigants, who had to supply the fee to the notary to write up their initial complaint and subsequent documents as the suit proceeded. If they were successful their costs might be borne by the losing party, but the financial outlay could be significant.¹⁵

Nonetheless, men and women of African descent, enslaved and free, litigated vigorously. McKinley (2016) tells the story of an enslaved woman who filed charges against the priest who owned her, for taking her virginity and mistreatment. In her petition before an ecclesiastic judge, she argued that she should be transferred to a new master, one who would allow her to earn a wage but would also leave her two hours a day to manage her litigation, as she claimed was customary. Whether or not slave-owners regularly allotted time for enslaved people to manage their legal matters, the case demonstrates that many enslaved men and women expected to be able to litigate and had a language in which to express their expectations. Moreover, they, like free Black and indigenous litigants, often articulated their claims in terms of coerced work and compensation.

This explains the legislation that the four incarcerated men in Lima cited as their defense. In 1601 viceroy Velasco prohibited the use of indigenous subjects for personal service, comparing it to slavery whereas all Indians enjoyed "entera libertad de vasallos," without subjection or servitude (Zavala, 1979: 3). The significant push-back Velasco received from elites –demanding exceptions and clarifications for particular industries and locations they felt would be damaged– resulted in Felipe III's 1609 royal order, which reconsidered certain restrictions and enforced others. In 1679-1680 Charles II wrote legislation that redefined slavery to, finally, exclude any indigenous person. In the language of these laws, freedom was identified as the receipt of adequate compensation, the absence of coercion (except for sanctioned *mita* or *repartimiento* obligations), and protection from abusive labor or overwork. Both laws recommended the use of enslaved Blacks in industries where Indian labor was prohibited.¹⁶ If the distinction between the fates of indigenous and African-descent people was ambiguous in the sixteenth century, by the seventeenth each was defined as having a legally-enshrined and different relationship to enslavement, labor, and compensation. In their arguments about social and economic justice, indigenous and Black complainants took these considerations seriously.

The Labor Problem in Lima

Between the sixteenth and eighteenth centuries, Lima was a center of the African diaspora in South America.¹⁷ Its port, Callao, was the primary destination for enslaved peoples being redistributed across Pacific South America; its neighborhood of San Lázaro was home to a barracks that held them in quarantine against spreading communicable disease. Sugar haciendas and vineyards employed enslaved labor forces along its coast, on lands purchased or taken from the dwindling indigenous population (Cushner, 1980). And inhabitants of the city itself –the seat of the viceroyal court and the political and social capital of Spanish South America– depended heavily on slavery to indicate their wealth and status (Walker, 2017). Its urban character, with robust markets, thousands of competing artisans, and households eager to employ extra hands, meant that many enslaved people had access to the *jornal*, or daily rental fees, which were usually shared with masters. Those small wages could eventually purchase freedom, and the city had a large free Black population. The census of 1614 enumerated about equal numbers of Spaniards (11,867) and people of African descent, free or unfree (11,130). By 1636 Blacks (14,481) well outnumbered Spaniards (10,758).¹⁸ None of these counts included the increasing numbers of enslaved people arriving in nearby Callao to be sold across the viceroyalty. In the seventeenth century, Lima was a Black city.

Within the orbit of this powerful, wealthy urban center indigenous and Black labor were tightly entangled. This was the case at the level of the household, where the region's wealthy insisted on being lavishly served by servants and slaves. The city's many convents and monasteries –which not only housed the region's religious but also provided education for elite children– also had enormous staffs, both paid and unfree. But the issue was much larger than domestic help. Spaniards largely settled on the coast, spreading epidemic disease, seizing arable lands, and making claims on the labor of the small indigenous towns that remained. In response to the constant complaints of labor shortage among the city's powerful *vecinos* [rights-bearing citizens], viceroys instituted a *mita* or forced labor draft upon the region's indigenous populations in the late sixteenth century, requiring them to send contingents of male laborers to work for months in agriculture, public works, and similar occupations in the service of the city's common good.¹⁹ But even this practice only sent a one or two thousand laborers to Lima each year, as the crown directed most of the draft towards profitable mining.

With the scarcity of cheap or free indigenous labor, wealthier settlers turned to the market for African slaves. Africans had accompanied the conquistadors and were a small but common presence throughout the rural Andes, but they were an expensive investment as long as the fantasy of free Indian labor survived. The discovery of important gold, silver, and mercury mines in the highlands led to conversations between the crown, the viceroys, and city councils about the relative benefits of using indigenous or enslaved labor to work them (Bryant, 2014; Graubart, 2018; Lane, 2000). The royal

decision in the 1570s to make *mita* the central means to excavate mineral wealth directed highland populations, whose mortality rates were lower than on the coast and rebounded in the seventeenth century, into mining. Coastal entrepreneurs were left to seek other options for labor for their commercial haciendas, sugar plantations, and *obreros*. The Atlantic slave trade filled that need, making Lima a majority-Black city and placing Black laborers all along the coast. Free and unfree Black labor produced wheat, sugar, cattle, cotton, textiles, and other staples, alongside indigenous *mita* and wage laborers.

Nature, Labor, and the Indian/African Binary

By the turn of the seventeenth century, complaints about labor shortages (from employers) and labor theft (from indigenous communities) were rife. The first spate of reforms, from Viceroy Velasco and Felipe III, prohibited certain kinds of labor drafts, excessive and unpaid labor, and the kidnapping of indigenous laborers to work as servants in the households of Spanish elites and office holders, euphemized as "personal service". The monarch also clarified the freedom of Indians to live where they chose, and denounced and prohibited the use of labor cohorts in commercial agriculture and related enterprises (Konetzke, 1958: 71-85). He pointedly called out *obreros* as unhealthy places for Indians to labor, even when Indians co-owned the enterprises or agreed to work there. Instead, the king ordered, "they ought to be staffed with Blacks or another kind of service".

Felipe returned to the topic in 1609, distinguishing between Indians and Blacks based upon the conditions of their bodies and minds, as well as their legal status within the empire. Indians, he stated, should not be "oppressed" by personal service, "in the manner of slaves," but could be forced to labor for the common good rather than for individual profit (Konetzke, 1958: 155). The common good was defined here as mining, caring for cattle, working in agriculture, and other things that "resulted in the common utility of the kingdoms". That labor could be compelled because of the "natural inclination" of Indians to laziness: if forcible labor changed their customs or nature, it was an inherent good. But they could not be "sold, donated, give, nor alienated with the lands upon which they labor" because they "are, by their nature, free like the Spaniards themselves" (Konetzke, 1958: 161).

The difference between Indians and Blacks was supported by a distinct relationship to collective polities. Spanish law recognized Indians as original inhabitants, who lived among their own natural lords and had valid claims of access to collective property. They required assistance on their road to Christian salvation and *policía*, which had to be facilitated through supervised and compelled labor, which required compensation in part to teach them the value of labor and markets (Hanke, 1965, 1970; Pagden, 1987). Africans, in contrast, had been captured away from the polities and lords in which they had rights and thus could not claim self-governance nor collective resources. This difference was enshrined in the fiction of capitulation: if Indians had

offered their vassalage (and tribute payments) to the Spanish monarch in exchange for royal protection of their collectivities with their nobles, and the benefits of Christianity, Africans were involuntary immigrants whose loyalties remained afar. They were only rarely allowed to create collective political forms in the Americas, nor could they claim hereditary nobility. Moreover the classification of Indians as *miserables*, persons in need of protection, gave them access to legal assistance and prohibited them from being punished to the fullest extent of the law. By the middle of the seventeenth century these distinctions were naturalized into beliefs about the inherent abilities of each group (Duvé, 2004; Herzog, 2003; Premo, 2017).

The rise of a significant free Black population placed pressures on this insistence on the distinctiveness of Black and Indian political standing. When Felipe II in 1574 sought to increase the value of tribute collected in the kingdom by adding free Blacks and mulatos to the rolls, his argument was that they were accustomed to paying tribute to their African lords and kings. As they now resided in his realm in peace and prosperity, they should transfer the obligation to him, even if they could not necessarily transfer loyalty (Jopling, 1994). He had, nonetheless, few institutional mechanisms for collecting it. When agents of the province's *corregidor de los naturales* [royal magistrates with jurisdiction over Indians] visited Black residents to collect tribute in the early 1600s, the residents met them at the door armed with defensive weapons.²⁰ It proved difficult to force these free men and women to carry out labor for the community's benefit or to pay taxes or tribute: there was no Black leadership to threaten or cajole, on the model of the Indian cacique and governador.

The absolute binary free Indians/enslaved Africans could not stand. Indians, while definitionally free, could be compelled to work, even if they had to be moderately compensated. Enslaved people could purchase their freedom, at which point it became difficult to compel them to labor or to pay taxes. At the turn of the seventeenth century, Spanish administrators penned proposals for resolving all sorts of labor problems –most notably the lack of labor in mining and the ongoing problem of policing runaway slaves– by creating a new template for pacifying Indian towns (*reducciones*) and using it as a mechanism to collectively discipline unruly Blacks. If the natures of Blacks and Indians were distinct, the instruments for forcing them to carry out tasks that benefitted people other than themselves could be the same.

Thus the seventeenth century opened with a constant drumbeat for compulsory wage labor. The various royal orders on service required that labor which could prove dangerous to indigenous bodies (pearl fishing, *obrajes*, certain types of mining) be replaced with labor for the common good as a means of personal improvement. Those employers who needed labor that could not be done by Indians were tasked with purchasing African slaves. But all free people –"low-status and lazy Spaniards, and free mestizos, Blacks, mulatos, and zambairos"– "should work and be occupied in the service of the republic for their wages and meals" (Konetzke, 1958: 72). Many workplaces

would have to draw from a variety of labor pools, with differentially managed and compensated people doing largely equivalent tasks. In the end, the freedom of subalterns (Spaniards of ill repute, as well as indigenous, black, and mixed populations) rested on their ability to be disciplined and managed towards Christian practices and compulsory labor.²¹

Equivalences and Ambivalences: Black Claims about Indigenous Subjects

Black and indigenous colonial subjects were well versed in the discourses that rationalized their treatment, and they often gestured towards one another's positions in order to make claims. Most often they argued that, as individuals, they were miscategorized. The case of the four *pardo* men in the Lima cell is an important exception, as they argued that their collective position was a miscategorization: as men born in the Americas to free Spanish fathers, they were *naturales* (natives) just like Indians rather than foreigners like men born in Africa. Other Black subjects made individual claims in indirect ways, for example convincing a notary or bureaucrat to register them as rights-bearing *vecinos* of a city in a document like a will or passenger records, an argument that they had been fully incorporated into the urban community and might try to draw upon its privileges and resources.²² A small number successfully claimed that they were Old Christians, as they sought permission to travel across the Spanish empire (Ireton, 2017).

The care which Black subjects used to name and categorize themselves in notarial records reflects their will to place themselves within the bounds of a civil society that excluded them. They called themselves *naturales*, *vecinos*, and Old Christians, but also occasionally *don* and *doña*, titles of minor nobility that indigenous elites (and pretenders) regularly claimed but were largely denied to people of African heritage. Given the rarity of these terms among people of African descent in Lima, its Spanish notaries probably contested and refused the use.²³

One space in which Blacks successfully reclaimed the languages of heritage and office was the *palenque* or runaway-slave (*cimarrón*) community. Spanish narratives about those *palenques* that withstood long periods of military interventions often noted (if sneeringly) that the leaders claimed royal lineage. When *palenque* leaders submitted to pacification treaties –on the model of indigenous capitulation– they might be received with the title "don," with a military office, or with recognition of their claim to kingship. The terms negotiated between the *cimarrón* leader Yanga, a Franciscan friar, and a Spanish councilman in Veracruz, New Spain in 1608 titled the leader "Capitán Ñaga" (Landers, 2006: 134). Don Luis Mazambique was received as the "rey de los cimarrones de Portobelo," when he submitted in 1579. Authorities warned the residents of the new Black pueblo he governed that they had no king but Felipe. Spanish informants thereafter complained his subjects continued to address don Luis as *rey* (Jopling, 1994: 375). Authorities

recognized the way that hierarchies and royal narratives functioned within the palenque, and while they could not endorse these at face value, they transformed them into more acceptable status.

Once free, people of African descent preferred to refuse the equivalence with Indians. As noted above, the Crown found itself in contradiction: while Blacks could not draw upon any of the collective resources that indigenous peoples could, it still wished to control their labor and characterize their tax contribution as tribute. On the peninsula, the distinction between those commoners who paid headtaxes (*pecheros*) and exempted nobles ran along class lines. In the New World it also became a racial divide: no Spaniard paid tribute but all non-noble Indians did. The crown sought to classify non-Spaniards as tributaries, beginning with free people of African heritage (negros, mulatos, zambagos) and eventually adding mestizos in the eighteenth century (Milton & Vinson III, 2002; Gharala, 2019). They all resisted to some degree.

Black residents in Lima were also excoriated for refusing to perform collective labor. Its cabildo noted in 1555 that they refused to clean the city's streets of animal and human waste, they "who enjoy the benefits of their *vecindad* along with whatever other citizens receive, are very prejudicial to the Republic and are of no utility to it." Not surprisingly, they continued to refuse despite the appointment of an unpaid inspector to oversee them.²⁴

Black colonial subjects saw Indians as both a privileged group and one easily victimized by its collective character. The Franciscan Bernardino de Cárdenas, Bishop of Asunción, expressed this ambivalence in an anecdote in 1634.

Once a Black slave was mistreating an Indian cacique, and when a priest saw this he told the Black man to leave the Indian alone, remembering that he was enslaved and the Indian free; the Black man responded that he was the slave of just one master, but the Indian was the slave of all the whites and Blacks, for they order him around and smack him as if he were, even if he is a cacique.²⁵

While Black subjects might admire indigenous subjects' ability to muster noble heritage and evade commodification, they were not blind to the limits of that freedom.

Ambivalences and Equivalences: Indigenous Claims about Black Subjects

Indigenous subjects occupied, at least on paper, a privileged position in the colonial world. By the seventeenth century those privileges were severely eroded. The institution of *composiciones de tierras*, or royal land-titling inspections, periodically removed and auctioned off land that inspectors believed exceeded the needs of the community, or whose ownership could not be established. *Caciques*, too, received competition from new kinds of indigenous political officials, including annually-elected *alcaldes* and men who gained power through close relationships with the church. Indigenous

communities collectively, and Indians individually, experienced harm throughout the century.²⁶

In this context, many indigenous men and women surely shared Cárdenas' cynical assessment of their condition. Like free Blacks, they sought to evade the tribute and *mita* system by claiming to belong to new or different categories. Migration was not supposed to sever one's obligation to the community's tribute payment or labor draft, but permanent migrants to cities famously skirted these burdens. In Lima, they innovated by borrowing the category of *criollo*, previously used to distinguish New-World-born people of Spanish descent from their peninsular kin, or enslaved men and women who were either born in the New World or were fully acculturated from *bozal* or African-born slaves (Graubart, 2009). When the census-taker asked Lima's Indians which cacique they owed tribute, some replied that they had none, as they were *indios criollos*. Some used the category when they wrote wills, perhaps a way to avoid highland kin from making claims on their urban estate. Spanish authorities preferred to call them *indios rebeldes*, inviting a comparison with Black *cimarrones* running undetected in the mountains.²⁷ In any case, the category was a demand that they be allowed to remove themselves from the connections that gave them privileges and resources, but also unwanted obligations: an inadvertent equivalence with the free Black men and women who had no republics.

The other common equivalence Indians claimed had to do with pay. Free Black men had few opportunities to improve their social status. One path ran through the Black and mulato militias, which enabled them to use a military title, carry a weapon, and use other status-related privileges. In contrast, indigenous men (often nobles) who held such offices did not usually receive a salary. They were exempted from tribute and *mita*, and given the right while in office to "dress like a Spaniard, and wear a sword and dagger," ie to publicly use the privileges of their nobility.²⁸ In 1657, don Felipe Carguamango, an indigenous aristocrat and member of the Indian militia, applied for the position of "Sargento Mayor or Alcalde" of Lima.²⁹ This appears to be an office that merged his military title with the position of judge of Indian matters; he requested exclusive jurisdiction to resolve the concerns of Indians in the regions that lay just outside the city limits. In his petition for the office, he demanded that it carry the salary of a soldier "following the example of the free Black and mulato captains." The indigenous captains, *maeses de campo*, and *sargentos mayores*, while bearing the same job description as the Black and *mulato* captains, were unsalaried.

Although it is difficult to know how common complaints about equal salaries were, the 1609 cédula's insistence on at least minimal compensation for indigenous laborers (including *mitayos*) indicates that Indians regularly went unremunerated. Certain indigenous officers in the Lima area were authorized for pay: the *alguaciles*, auxiliaries to Spanish officials, received small salaries or kept a portion of the fees they collected.³⁰ An *alcalde mayor de los naturales* assisted the Spanish *corregidor de los naturales* in 1603 for a fairly

substantial annual salary, 250 pesos: this was perhaps an earlier form of the position don Felipe Carguamango sought (Puente Luna, 2018). But many Spaniards expected that Indians would labor for them for free, a position shaped by the *mita* requirement as well as the constant drafts of Indians for public works projects, like maintaining Lima's irrigation systems. The indigenous men who were confident enough to apply for offices drew upon the fact that Black officials were, at least sometimes, paid for their work.

Even more common was the rhetorical device of Indians claiming to be enslaved, despite their inherent freedom. Indigenous nobles and officers filed petitions arguing that they were the most exploited subjects in the realm. In the 1660s, a group of caciques and governors in central Peru wrote to the crown to denounce their regional corregidores and associated municipal government,

que siendo [los indios] la gente mas desvalida y pobre, que tiene el mundo, y que hasta el tiempo presente emos padecido increibles molestias y trabajos originados de la insaciable cedencia de los Gobernadores y corregidores, que lo eran, mas para buscar intereses y propias conveniencias, tratandones peores que a esclavos, de que se seguia con grandissimo menoscabo la disminucion de los Yndios, y despoblacion de nuestros lugares, porque sus habitadores huendo de la esclavitud y malos tratamientos sean retirado en gran numero a vivir como fieras en las cavernas y montes mas incultos, teniendolo para mejor querte que el vivir entre Christianos.³¹

This rhetoric was buttressed by the king's insistence that Indians and Blacks were essentially distinct, and the Indians alone merited official protection. But the crown's usual solution –to encourage employers to pay small sums to indigenous laborers while buying more African slaves– did nothing to transform the larger circumstances. While indigenous servitude and Black slavery were not legally or materially the same, labor conditions could suggest that they were functionally similar.

Indians As Slaves, Slaves As Indians: Two Riots

Often a shared workplace revealed the comparison. To conclude, I offer a glimpse of those sites, two *obrages* in the greater orbit of Lima in the late seventeenth century, both of which experienced riots. In these notorious enterprises, the intimate relationships between indigenous and African-descent people allowed each to measure him or herself against the other in real terms. In both cases the conflict turned violent, and then manifested in documents as complaints about the relative treatment of racialized workers.

Many worksites, from elite households to artisan workshops to rural haciendas and isolated mines, could provide the backdrop for cross-racial antagonism or solidarity. *Obrajes* seem to have been uniquely combustible; their labor conditions were notoriously miserable and violent, leading viceregal administrations to offer numerous attempts at reform. The workforces of the larger *obrages* were heterogeneous. While the crown tried to

limit the use of *mita* labor in such private enterprises, some continued to receive contingents.³² Many owners hired indigenous and Black wage labor, but they also purchased or rented enslaved men, women, and children, and – like Lima's infamous *panaderías*– served as sites of incarceration for convicted prisoners and debtors.³³

The work at an *obraje* could be complex, involving the treatment of raw wool (usually Castilian sheep or Andean camelid) or cotton; spinning, carding, and dyeing; weaving on large upright looms; and finishing the product with ironing and shearing. Some *obrajes* also included farmland and pasturage, and they required blacksmiths, cooks, and other skilled labor to support a live-in workforce. Given that so many employees were there against their will, *obrajes* were often locked and their laborers chained. Corporal punishment was common.³⁴ Monarchs identified *obrajes* as particularly onerous workplaces, especially dangerous for indigenous laborers, and viceroys sent inspectors to investigate them from time to time over the seventeenth century, though there is little evidence that reforms succeeded: *obrajeros* were largely willing to pay fines in order to continue exploiting indigenous workforces.

Pablo Sierra Silva (2018: 62) uses Mary Louise Pratt's concept of the "contact zone" to argue that *obrajes* were "spaces in which 'cultures meet, clash, and grapple with each other, often in contexts of highly asymmetrical relations of power.'" *Obraje* workforces included men and women not only of different positions in the colonial racial hierarchy, but also laborers under distinct contractual conditions. This fact, as much as the terrible conditions and harsh punishments, likely contributed to the frequent occurrence of riots and rebellions in the enterprises.³⁵

In April 1663, the indigenous town of San Juan de Churín (north of Lima, in the corregimiento of Cajatambo) erupted in riots. According to testimony presented by Spanish officials some months after, indigenous men and women from surrounding communities stoned representatives of the viceroy, tore down the *obraje* and set fire to most of the buildings. This was the beginning of three months of uprisings, which ended only when enough armed Spanish militia reinforcements arrived to force a settlement. At the heart of the rebellion was a viceregal order that the Indians of nearby Andajes perform their *mita* at the *obraje*. The conflict left the town in devastation, and some indigenous and Spanish combatants dead.³⁶

Churín's *obraje* had been central to the local Spanish economy since the late sixteenth century. Little contemporary documentation survives, but in the early seventeenth century it had twenty-two looms and 150 spinning wheels, and attached agricultural land and an *estancia*. At that time, in addition to the numerous indigenous *mitayos*, it employed four enslaved Black men as smelters, and four Black muleteers carried cloth from the premises to markets in Lima (Pereyra Plasencia, 1984).

In 1662, the Indians of Andajes, for reasons still unclear, refused to serve their labor turns at the *obraje*. The refusal eventually came to the attention of

viceroy Conde de Santisteban, who issued an injunction requiring their participation and sent his representatives to deliver it in person in April 1663. The stand-off between Spaniards and Indians continued for three months. By August the Indians had turned their tools into weapons, and were shouting "guerra, guerra, y mueran los españoles porque están en nuestra tierra," according to Spanish witnesses (Pereyra Plasencia, 1984: 214). After a magistrate sent a Quechua-speaking Franciscan friar into the mountains to mediate, the Indians sent their demands for peace: they would come down only if the Spaniards sent three heads to them within half an hour, that of their *governador*, don Francisco del Campo Yapanchagua, and two unknown men, Joseph Grimaldos and Juan de Salazar. If the conditions were not met, witnesses claimed, the Indians said they would cut the throats of all the Spaniards, from the *corregidor* and *alcalde* to the priests. Instead, an infantry unit led by the province's Spanish *alférez*, Domingo de Carrerra, coordinated an escape from the town, arrested a number of indigenous leaders, and declared an end to the situation. By August 25 the Andajes were rebuilding Churín's structures, but they still refused to serve in the *mita del obraje*.

The historian Hugo Pereyra Plasencia has gathered the fragmentary documentation of the uprising, mostly in the form of testimonials in support of Domingo de Carrerra's rewards for service to the crown.³⁷ These couch the conflict in predictable seventeenth-century terms: barbaric Indians rose up in disobedience to their monarch. But, as Pereyra Plasencia notes, it is possible to read these for hints of real motives. The first, of course, was the *obraje* itself, and it is no coincidence that the viceroy's *Ordenanzas sobre obrajes*, highlighting the terrible conditions of these enterprises, were written shortly after this crisis. A second clue comes from the demands for certain heads to roll: the *governador*, of course, was the indigenous official responsible for fulfilling the *mita*, so the community's anger at him is understandable. Pereyra Plasencia suggests that the other two men were *guatacos*, Black or *mulato* men who managed labor for and in the *obraje*. A final piece of evidence comes from a letter written by the *oidores* of the Real Audiencia of Lima in February 1667, claiming that the refusal and uprising were caused by the Indians' "haber oido decir que se habia dado cédula para reducirlos a esclavitud y sustraerlos de la tutela de sus caciques" (Vargas Ugarte, 1971: 304). That is to say, the Indians of Andajes, who worked alongside enslaved and free Black laborers, believed that they were about to lose the few privileges they had and be reduced to the condition of slaves. Given that the community also complained that recent *composiciones de tierras* had unjustly expropriated their land and severely constrained their ability to survive independently, it is likely that their experience in the contact zone of the *obraje* offered them a clear picture of a possible future. In Churín, the revolt seems to have stemmed from the Indians' fear that they were no longer protected from the fate of enslaved Blacks, whose conditions were on daily display in their midst.

In contrast, we know little about the riot that erupted on the Lima *obraje de sombreros* in December 1677. Around fifty people were involved and the event

resulted in the imprisonment of at least four enslaved Black men, one of whom was married to an indigenous woman.³⁸ The four had been imprisoned after instigating what authorities called an “alboroto o tumulto,” a disorderly uprising against their master in December 1677. Three of the men (Juan Pasqual, Domingo López, and Blas Manuel), wrote their first petition after they were imprisoned that summer. Their experiences had turned them into activists. They catalogued their master’s offenses: they were held in an *obrero* where they labored without rest, held in iron chains and shackles, burned with lit candles, hot tar and wax, whipped: they were mistreated with “ferocity... with more evil punishments than they might experience in Berbería [as Christian captives of Muslims]....”³⁹ They stated that their wives were also mistreated, and their master would not allow them to have sexual relations or “consent that they see or intimately communicate with them”⁴⁰. Faced with a return to their master upon release from jail, they asked to be freed to seek a new buyer.⁴¹ The courts demanded evidence for their claims, and when it was not produced, dismissed the case.

With this dismissal of a demand centered on their rights as enslaved men, they shifted to the claim that they were not legally enslaved at all, as they shared the same status as indigenous men: they were *naturales* caught up in forced labor, illegal imprisonment, and the theft of their pay. They were not citizens of African states, but were born in Peru alongside other *naturales*. They were Christians who asserted their loyalty to a Spanish monarch, and they were the sons of free white men. Their position as co-workers, as well as friends and spouses of indigenous free laborers, outside a city that was home to the highest courts in the land, taught them to envision a different future. That future, at least in the petition’s telling, promised them the protections offered to Andean natives.

Conclusions: Black un/freedoms and Indian un/freedoms

Across much of the Spanish empire in the Americas, indigenous and African-descent peoples lived in close contact. The entangled nature of labor, both in urban centers and on massive complexes, gave them the opportunity to measure themselves against one another. The law developed across the sixteenth and seventeenth centuries suggested an eventual clarity about their separate conditions, but experience revealed the muddiness of both definitions and enforcement.

As a result, those who had access to the courts or the notary measured the deficits of their position and made pointed reclamations. The documents they penned reveal the ways that they understood colonial discourses about freedom and hierarchy and applied them to their own lives. Black subjects recognized the indecency of hereditary slavery and uncompensated labor, and free Indians reflected upon the ways their own unfreedoms tracked with those of enslaved Blacks. Those documents reveal how deeply indigenous and Black subjects felt their unfreedoms, how they theorized a more just life

either for themselves or for larger collectivities. When we contemplate how colonial subjects formed their own identities, we should pay attention to the ways they saw across and through the common divides of race and ethnicity.

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Notas

¹ Archivo General de Indias (AGI) Lima 18 (1681). I analyze this petition in detail in Graubart (2021).

² Terms like *pardo* were often multivalent, changing meanings over time and also with a thought to audience. In this particular case, the plaintiffs used *pardo* to refer to dark-skinned persons with one white [free] parent. The term *mulato*, which was also used in this way, was generally associated with enslavement, as *negro* was and as opposed to *moreno*, a person of African heritage on both sides but not enslaved. *Cuarterón* usually referred to a person with one Black grandparent, though here it seems to suggest the opposite -a white grandparent but enslaved parents-. This careful use of language was more common among people of African descent than among Spaniards. See Graubart (2012); Vinson III (2018).

³ Konetzke (1958, 154-168). On the larger context see Zavala (1979).

⁴ Konetzke (1958, 678-679). While the New Laws (1542) prohibited the enslavement of indigenous subjects, they were not promulgated until 1555, and even then there remained a loophole for captives from regions considered under warfare. This left many regions, including Chile, Nicaragua, and northern New Spain, as sites where indigenous slavery was officially legal. See Reséndez (2016); Van Deusen (2015).

⁵ AGI, Lima 18, f. 6.

⁶ Notably Bryant (2014); Martínez (2011); O'Toole (2012).

⁷ There are compelling models for understanding Black-indigenous relations outside the Andean region including Cope (1994); Gómez (2017); Martínez (2011); Nemser (2017); Sierra Silva (2018).

⁸ More (2019).

⁹ This was not just a Christian practice, but also common to Islamic states in the Mediterranean world, and the relationship between slaving and warfare could be mutually supportive. See Blumenthal (2009); Fancy (2016); Hershenzon (2018).

¹⁰ It is worth recalling that the group of Christians Colón left behind at the trading post of La Navidad in 1493 were massacred by Taínos, who were perfectly competent to defeat them before epidemic disease and larger armies changed the equation. See Nader (1992).

¹¹ The best-known cases of hearsay were that of Moctezuma in Tenochtitlán and Huáscar in the Andes. Conquistadors asserted that they had capitulated (and even converted) before their deaths, though this was probably a strategy to justify illegal actions or prop up conquistadors' position. See, e.g., Clendinnen (1991); Lamana (2008).

¹² Konetzke (1953: 134-6, 143-144, 153-159) On the effects of the New Laws on the categories of Indians, as well as indigenous litigation for freedom, see Van Deusen (2015) The longer story of the slow prohibition of Indian slavery is told in Zavala (1979).

¹³ See Cunill (2011); Duvé (2004); Lohmann Villena (1957); Novoa (2016, 8-11).

¹⁴ On Chinchón's plan, see Bowser (1974: 184) For Lima's procurators, see Honores (2007).

¹⁵ For a breakdown of the process and costs in Lima, see McKinley (2016: 38[43])

¹⁶ The two cédulas are published in Konetzke (1958: 71-85; 154-168)

¹⁷ Among the first scholars to investigate the African presence in Lima were Bowser (1974) and Harth-Terré, (1973). More recent studies of slavery in the Andes include Aguirre (2005); Arrelucea Barrantes and Cosamalón Aguilar (2015); Ares Queijas (2000); Jouve Martín (2005); McKinley (2016); O'Toole (2012); Cosamalón Aguilar (1999); Walker (2017). Sherwin Bryant (2014), who studies slavery in Quito, notes that even without a significant enslaved population in residence, slavery underwrote the colonial project.

¹⁸ For the censuses, see Bowser (1974: 340-341).

¹⁹ See Sánchez-Albornoz (1988).

²⁰ On Black and casta tribute, see Gharala (2019); Milton and Vinson III (2002); Albiez-Wieck (2020). On the attempts to collect tribute in Lima, see AGI Contaduría 1713 (1628-9), f. 196.

²¹ Konetzke (1958: 155-7). On the biopolitics of the *reducción*, see Nemser (2017).

²² On *vecindad* and citizenship, see Herzog (2003: 76-82). For examples of Black *vecinos* and Old Christians, see Ireton (2017).

²³ On the negotiations between clients and notaries, see Burns (2010).

²⁴ For the cabildo's discussion, see Lee et al. (1935, vol. IV: 356-7, 516). On the role of work in the Castilian republic, see Mackay (2006: 46-71).

²⁵ Cárdenas (1634: 58). See discussion in O'Toole (2012: 17).

²⁶ The literature on this is substantial, for important interventions see Abercrombie (1998); Glave Testino (2008); Guevara Gil (1993); Penry (2019); Puente Luna (2018).

²⁷ See Contreras (1968). For *indios rebeldes*, AGI Lima 143, f4 etc.

²⁸ For example, AGI Lima 579, L6 (1581) ff. 60v-61r. On the militias, see Vinson III (2001).

²⁹ AGI Lima 169.

³⁰ AGI Lima 578, L2; Lohmann Villena (1957: 453).

³¹ AGI Lima, 11.

³² Many encomenderos opened *obreros*, utilizing their own indigenous labor forces: see Silva Santisteban (1996: 34).

³³ Miño Grijalva (2016: 219-270); Sierra Silva (2018, Chapter 2). On *panaderías* see Arrelucea Barrantes (2009, Chapter 4).

³⁴ Sierra Silva (2018: 51-53); Silva Santisteban (1996: 42).

³⁵ For uprisings in the Cajamarca area, see Silva Santisteban, 1996: 55.

³⁶ My retelling draws upon research by Pereyra Plasencia (1984) as well as my own reading of some of the documents.

³⁷ Pereyra Plasencia (1984). The archival sources include AGI, Lima, 268, which is the investigation of Carrerra's actions, as well as Carrerra's petitions to the corregidor in Archivo General de la Nación del Perú, Protocolos Notariales 1570, Gaspar de Quesada, 1671-2, ff. 49r-72r. Pereyra transcribed and published some of these pages as an appendix to his essay. Due to the current pandemic, I could only access published or digitized documents.

³⁸ Fifty participants is the claim of the petitioners (f. 4v). They also identify the owner as a "foreigner (extrangero) supported by the most powerful men of this city."

³⁹ AGI Lima, 18, f. 8.

⁴⁰ AGI Lima, 18, f. 13v.

⁴¹ On the relationship between *sevicia* or abuse claims and the right to be sold, see De la Fuente (2007); McKinley (2016).