Introduction

> I have given myself to this great defense that is this pretended freedom that was so confused and dark and deep that it has been necessary to found it with much efficacy and saintly zeal.
>
> —Gregorio Cosme Osorio, Madrid, 1795

> I was sold like a cargo slave [*esclava de armazón*] even though I was born, raised and educated in a Pueblo of our Catholic monarch's domains [El Cobre].
>
> —Margarita González, Sancti Spíritus, Cuba, 1792

> Nativeness is one of the greatest obligations people can have with one another ... [it] converts them into a single unit through the long practice of loyal love.
>
> —Siete Partidas, 13th c.

The words in the first two epigraphs were written more than 230 years ago, at a time when freedom was taking a central role in political and philosophical discourse in the Atlantic world, but its meanings were elusive. A time when slavery, freedom's main antithetical condition then, was expanding and morphing into a "second slavery" in many regions of the American hemisphere, including Cuba.[1] This book is about the shocking enslavement of more than 1,000 women, men, and children who had lived as a pueblo in colonial Cuba for more than 100 years and about the unprecedented freedom lawsuit they took to the highest imperial court in Madrid in the last two decades of the eighteenth century.

[1] Dale Tomich has aptly termed this new wave of slavery expansion in the Atlantic world a "second slavery" in *Through the Prism of Slavery*. For Cuba, see Ferrer, *Freedom's Mirror*, 12. For the new Spanish imperial thinking and policies undergirding the aptly named "slaving fever," see Schneider, *The Occupation of Havana*, 270–84.

The first epigraph comes from the letter of a freedman who had once been a royal slave in that pueblo but was then residing in the imperial court in Madrid.[2] For more than a decade, Gregorio Cosme Osorio had been in exile acting as the legal representative (*apoderado*) of the enslaved plaintiffs who were seeking freedom and return to a pueblo they considered their local homeland. Finding all legal channels of redress in the colony exhausted, Cosme and another companion, a pardo (Brown) artisan named Carlos Ramos, traveled covertly to Madrid under the sponsorship of a middling Spanish merchant residing in Havana named Don José Espinoza de los Monteros. Transatlantic journeys of this kind were uncommon for Afro descendant subjects and more generally for non-Spaniards in the empire too.

Once in Madrid, the three men filed jointly a petition in the Council of the Indies in 1784. In that document, they presented themselves as "natives" (*naturales*) of different localities in the empire: one from villa Manrique in the Spanish "kingdom of Seville" and the other two from the aggrieved community, a pueblo named Santiago del Prado (aka El Cobre) on the island of Cuba. The petitioners also referred to the enslaved plaintiffs whom they were representing as "natives of that pueblo in Cuba": they sought justice, their petition said, "on behalf of the rest of the natives of the said pueblo of more than 6,000 souls who have been dispossessed of their freedom and handed out as slaves."[3] Although the 6,000 souls cited as the *naturales* of Santiago del Prado constituted an inflated population count (the number was closer to 1,400), their invocation of that seemingly descriptive category was significant. Or rather, they *made it* significant in the freedom action they presented to the court. A few years later, Margarita González, one of the plaintiffs covered by the collective action in Madrid, also filed a freedom petition in the colony's lower courts. The basis for her freedom, as the second epigraph suggests, was essentially that she was a native of a pueblo, and therefore not a slave, and that her local homeland was part of Spain's Catholic empire.[4] Those were unusual grounds to claim freedom in the Spanish empire, or even in the Atlantic world, at least in traditional legal terms.

[2] Gregorio Cosme Osorio, Madrid, October 6, 1795, No. 75, Archivo General de Indias (hereafter AGI), Santo Domingo (hereafter SD) 1629.

[3] Memorial of Don José Espinoza de los Monteros, Gregorio Cosme Osorio, and Carlos Ramos, Madrid, April 4, 1784 (hereafter Memorial Madrid, 1784), AGI-SD 1629.

[4] Petition of Margarita González, Sancti Spíritus, September 5, 1792, in Autos Teresa Ramos alias Coba, No. 34, AGI-SD 1628.

But again, this legal (and political) action was unusual in many ways, and so was the community behind it. The lapidary words in the third epigraph went farther back into medieval times, to the thirteenth century Castilian foundational legal code of the *Siete Partidas*. Yet they were still part of a cultural, social, and political understanding of belonging for many subjects throughout the Iberian world, and they undergirded Margarita González's freedom claim in the colony too.

Hundreds of men and women from the pueblo of El Cobre fought tooth and nail during the 1780s and '90s in Madrid and Cuba against the transformations taking place as part of the Bourbon Crown's imperial reforms in this region in eastern Cuba: policies that were also creating other kinds of unrest elsewhere in the empire.[5] The lawsuit at the center of this book became the largest and most complex freedom action in the annals of Spain's colonial archive at least up to the early nineteenth century, perhaps beyond too. Set mainly within the framework of Spanish Atlantic legal and political discourse, this controversial freedom suit put forward novel claims associated to nativeness (*naturaleza*) and native rights that expanded notions of freedom and belonging among Afro descendants in this region at a time when questions of slavery and freedom were igniting many parts of the Atlantic world. What can the claims of this remarkable legal action and the events and litigants that sustained it reveal to historians of Cuba, the Spanish empire, and the wider Atlantic world?

Located in eastern Cuba, barely twelve miles from Santiago de Cuba, the regional capital, El Cobre is one of the oldest pueblos in Cuba. By the eighteenth century, however, this community had become an unconventional pueblo in the Spanish Atlantic world due to its irregular social profile. In the 1780 regional census of Santiago de Cuba's jurisdiction, for instance, 99 percent of this pueblo's 1,406 inhabitants were recorded as Black or Mulatto.[6] And whereas 33.5 percent of villagers in this census

[5] Perhaps the greatest unrest came in the Andean region with the Tupac Amaro rebellion in 1780–83, the revolt of the Comuneros in New Granada in 1780, and other more localized reactions. See Walker, *The Tupac Amaru Rebellion*; Phelan, *The People and the King*.

[6] Census of Santiago de Cuba and Jurisdiction, Santiago, February 24, 1780 (hereafter Census of Santiago, 1780), AGI-Cuba 1272. Censuses for this period are only approximations. Additions are often incorrect and there is considerable variability between different censuses. For instance, although the 1780 regional census gives a population of 1,370, the corrected figure that I will be using throughout the book is of 1,406 souls. Only two years before, the Census for the Island of Cuba from 1778 (hereafter General Census, 1778) provides a higher population count of 1,482 (again corrected from the reported 1,492) souls for El Cobre. In the 1778 general census, 1.3 percent of El Cobre's inhabitants were

were categorized as free people of color, an overwhelming 65.5 percent were inscribed as slaves. A village of African descendants did not fit properly into Spain's plural legal grid where only Spanish and Indian pueblos (or republics, as they were formally known) were sanctioned by written law per the *Recopilación de las Leyes de Indias* (1680).[7] Blacks and racially mixed colonial subjects were supposed to reside in Spanish republics in a subordinate capacity. Moreover, a village with such a high percentage of enslaved persons, in this case also considered members of the pueblo, constituted an even more unorthodox formation. How did such a mismatch situation between law and reality come about? And how would the legal action at the center of this book attempt to legitimize that mismatch?

El Cobre had sprung up at the end of the seventeenth century in the midst of a derelict mining settlement near the city of Santiago de Cuba. After the Crown confiscated the allegedly exhausted mines of Santiago del Prado from their private contractor in the 1670s, the former mining slaves became the "king's slaves" (*esclavos del Rey*). Profound reconfigurations of the status of these enslaved subjects and of their labor and defense obligations to the state developed in the course of the next century. I have written elsewhere an ethnographic and social history of the changes involved in the gradual makeover of these former mining slaves into a hybrid pueblo of slaves of the king and free people of color.[8] Suffice it to say that the growing pueblo's location in a military inter-imperial frontier in the Caribbean region (see Figure 0.1) provided a favorable context for these former mining slaves to informally negotiate flexible arrangements resonant of quasi freedom in different areas of life. A small Marian Christian sanctuary with an allegedly miraculous image of the Virgin of Charity also gave this unusual pueblo religious legitimacy and some regional fame. With time, these royal slaves and their free relatives came

inscribed as Whites; 35 percent as free of color; and 98.7 percent are slaves. General Census of the Island of Cuba, Havana, December 31, 1778, AGI-Indiferente 1527.

[7] *Recopilación de Leyes de Indias* 1680, the basic source of colonial law, only recognized Spanish and Indian republics or pueblos. There was no allusion anywhere in it to Black republics and pueblos, although it did not explicitly ban them either. There tend to be various uses of the term "republic" by scholars and contemporaries. In its singular form – the Republic of Spaniards and the Republic of Indians – it refers to separate general jurisdictions and legal regimes for Spaniards and Indians. In the plural form, "republics" of Spaniards and of Indians, the term refers to actual municipal entities related to those regimes: cities, towns, and pueblos. I use the term in this book in its second inflection. For other iterations of the term see Graubart, *Republics of Difference*.

[8] Díaz, *The Virgin, the King*.

FIGURE 0.1 Map of Cuba and the Caribbean. Map by David McCutcheon FBCart.S. www.dvdmaps.co.uk

to identify themselves as cobreros or natives of the pueblo of El Cobre. In Spanish, the term "pueblo" refers to a physical entity in a locality (a village) as well as socially and politically to its constituents (villagers), an ambiguity that facilitated the confluence of both terms. The identification as natives of a pueblo was based on old notions of local birthright and bonds of conviviality that were widespread throughout the Spanish empire (third epigraph). Although generally dismissed by historians as a merely descriptive category of origin, this term carried deep cultural, political, and legal meanings that I argue these plaintiffs mobilized in their composite freedom action and in their efforts to legitimize their unorthodox customary social formation.

To be sure, El Cobre was not the only pueblo of Afro descendants that emerged in Spain's Atlantic empire. A few others have been identified in the record. None, however, had the unusual profile of El Cobre, a pueblo constituted in its majority by enslaved people, even if royal slaves. Illegal maroon communities (communities of fugitive slaves) arose in the peripheries of colonial slave societies where they could subsist in precarious conditions subject to persecution and capture. But these communities did not constitute legitimate pueblos: they were illegal formations. In some cases, however, colonial authorities negotiated an amnesty with leaders of these communities and gave them recognition in an ad hoc way as colonial pueblos of free Afro descendants. Nuestra Señora de Guadalupe de los Morenos de Amapa in Mexico is perhaps the best known example of this kind of ad hoc recognized pueblo.[9] Other Afro descendant pueblos had a different kind of origin. The relatively short-lived San José de Gracia in Florida emerged in the eighteenth century as a sanctuary for runaway slaves from other imperial powers and became part of the peripheral colony's defense system with its own military functions.[10] El Cobre, however, was not a maroon community, nor had it been one in its origin. Although the cobreros made repeated use of marronage actions throughout their history, the community's trajectory and formation was different. Other informal communities, even pueblos, of mostly free Afro descendants may have materialized for limited periods of time in the periphery of the empire, especially in the circum-Caribbean

[9] Taylor, "The Foundation of Nuestra Señora de Guadalupe de los Morenos," 439–46. See as well San Basilio de Palenque in Colombia in Borrego Plá, *Palenques de negro*; Carroll, "Mandinga," 488–505. For one under negotiations for its legitimation, see Yingling, "The Maroons of Santo Domingo in the Age of Revolution," 25–51.

[10] Landers, "Gracia Real de Santa Teresa de Mose," 9–30. For Costa Rica, Cáceres Gómez, "La Puebla de los Pardos en el siglo XVII," 83–113.

region, but perhaps because the footprint they left in the archive is too weak or fractured we know little about them.[11] El Cobre, however, holds special interest to the historian not only for its profile but for the voluminous documentation it generated. Because this was a valuable royal mining jurisdiction and most villagers after the 1670s were considered slaves of the king, official local recordkeeping was requisite. Moreover, the legal action at the center of this book itself led to the collection of otherwise dispersed local and imperial records in a gargantuan dossier in the Archive of the Indies that enables the modern scholar to document the relation between local, colonial, and imperial levels in a wider Atlantic world.

The conflict and collective litigation examined in *From Colonial Cuba to Madrid* unfolded at a time when the Spanish Bourbon Crown deployed a broad series of "enlightened" policies to renovate – and modernize – its overseas colonies by making them more productive and, effectively, more "colonial."[12] The Bourbon monarchs' so-called enlightened economic and pro-slavery policies took hold more rapidly and effectively in some American localities than in others. In the Caribbean, and especially in Cuba, imperial reforms were geared toward upgrading commercially unproductive military colonies and transforming them into slave-based agribusinesses for the production and export of cash crops, mainly sugar. Havana led the transition into a full-fledged sugar plantation regime based on the massive importation of African slave labor.[13] The effects of Havana's "sugar revolution" were enduring and profound as sugar became "King" in the island for the next two centuries. Other regions, less dynamic, but not less affected by the imperial reforming impulse, are less well known. Eastern Cuba, and its jurisdictional capital in Santiago de Cuba, lacking capital, trade outlets, and resources at the time, lagged behind in the "modern" upgrading of the region and complained of lesser royal attention than Havana.[14] Yet lagging behind fast-track Havana did

[11] Marcela Echeverri, for instance, makes reference to "towns of free Blacks" in Popayán in New Granada, some created "illegally" by escaped slaves and others "legally" by free Blacks, but there is little discussion about them, especially about the latter. Her study focuses instead on the mobilization of "communities" living mostly as mining slave gangs. See her *Indian and Slave Royalists*, 120–21.

[12] Gabriel Paquette, *Enlightenment, Governance and Reform*; Brading, *Miners and Merchants in Bourbon Mexico*.

[13] Moreno Fraginals, *El ingenio*; Knight, *Slave Society in Cuba*, and more recently, Ferrer, *Freedom's Mirror*; Schneider, *Occupation of Havana* and "African Slavery and Spanish Empire," 3–29.

[14] Belmonte, *Ser esclavo en Santiago de Cuba*. See as well, Chira, *Patchwork Freedoms*.

not mean, especially in this new period, remaining isolated from or untouched by imperial policies and wider global trends in some isolated periphery as it is sometimes assumed. For it was here, in this so-called backwater of the empire, where the Crown tried to jump start another kind of industry and where that policy had immediate visible and controversial results as this book shows. In this case, however, the enlightened reform policy was directed at the revival of an extractive metal industry based on El Cobre's once rich copper mines. Crucial for the production of artillery, copper was at the time a valuable strategic resource for the Spanish Crown.[15]

The global imperial conflict of the Seven Years' War and the British occupation of Havana at the end of that war called for the urgent overhaul of the empire's military defense system and its arms industry. In 1779, as part of its military and mining revival policy in the empire, the Bourbon Crown privatized this old copper mining jurisdiction, with devastating consequences for El Cobre villagers whose long-established customary rights were suddenly upended. The newly privatized site – with its "mines, land and slaves" – was handed over to three distant heirs of a seventeenth-century mining contractor, Don Juan de Eguiluz, with the expectation that they would reactivate the dead mines and the large-scale extraction of copper. Instead, the beneficiaries of the privatized mining estate, reacting to the new colonial juncture of high demand for slaves in the island, divided up among themselves their newly acquired enslaved villagers and, asserting full property rights over them, removed them from El Cobre and sold many in the island's expanding slave markets. Margarita González, the enslaved litigant mentioned in the second epigraph who asserted that she was born, raised, and educated in a pueblo in

[15] The history of silver and gold mining in the Iberian overseas empires has received extensive scholarly attention. Copper mining studies, however, are limited. For early modern Spain, see Goodman's short overview in *Power and Penury*, 109–17. For copper production in Spain's Río Tinto mines, see Avery, *Not on Queen Victoria's Birthday*. The fundamental study of copper mining in the Spanish overseas empire is Barrett, *The Mexican Colonial Copper Industry*. For the copper mining industry in Cuba there is even less. The most important years in the early period were from 1599 to 1640. Thereafter, large-scale mining came to a stop and production became artisanal, see Díaz, *The Virgin, the King*. The most important production period s of El Cobre's mines during the colonial period was in the nineteenth century (1830s–60s) under British exploitation (see Chapter 9). There is an important article on this nineteenth-century mining industry by González Loscertales and Roldán de Montaud, "La minería del cobre en Cuba," 255–99. A full study of the copper mining industry at the imperial level and at the colonial and national levels is still needed.

the Spanish empire, was among those captives: she was sold in the town of Sancti Spíritus, a region in central Cuba. Although the literate Gregorio Cosme was later able to purchase his freedom and become the community's apoderado in Madrid, he, too, was enslaved and removed from El Cobre along with his wife and children. Multiple cases of re-enslaved people in the archive and in the memory of the African diaspora are reminders of the precarity of African descendants' lives in slave societies (Blacks living in post-slave modern societies continue to experience precarity in various ways as the Black Lives Matter Movement reminds us).[16] Yet an enslavement – or re-enslavement, the distinction became significant to some – of this magnitude, involving more than 1,000 people and sanctioned by royal edict, raised disturbing questions even at a time when state-backed pro-slavery policies were in ascendancy. The modern reader can begin to sense the legal, moral, political, and social conflicts latent in this privatization scenario, not to mention its shattering human impact.

One response to the resulting massive enslavement turned out to be remarkable: an unprecedented composite emancipation action that also protested the privatization of land and pueblo. What possibilities of fighting back slavery and protecting other customary entitlements did the law provide in a case like this? Or were the more conventional routes of individual purchase of freedom papers (*coartación*) or illegal marronage (fugitivity) the only – or best – options available to these villagers to resist enslavement, removal from birthplace, and the loss of resources such as land? I closed my earlier book *The Virgin, the King and the Royal Slaves of El Cobre, 1670–1780* precisely before the new period of Bourbon reforms hit the region and this tragic event took place. Beyond that moment lay disruption of the local community arrangements that had been negotiated for more than one hundred years, an idiosyncratic yet forgotten world that I had carefully culled out from the archival record and reconstructed in that book.

Although I knew that the cobreros had launched a legal action in the Council of the Indies and that in 1800 they had obtained freedom and recognition as a pueblo by royal edict, questions lingered about how that emancipation had been attained, especially in the new climate of strong

[16] Cases of re-enslavement can be found in the judicial archive of colonial Latin America and Cuba. For some examples, see Scott and Venegas Fornias, "María Coleta and the Capuchin Friar," 727–62; Chaves, *María Chiquinquirá Díaz*. The problem of kidnapping and re-enslavement was common elsewhere too. For the United States, see McDaniel, *Sweet Taste of Liberty*. For Brazil, Grinberg, "Re-enslavement, Rights and Justice."

pro-slavery forces that had thrown that local world off kilter in the first place. José Luciano Franco's pioneering *Las Minas de Santiago del Prado y la rebelión de los cobreros, 1530–1800* (1975), one of the first books in socialist Cuba on Black history, had produced a resistance narrative claiming that a long tradition of marronage and insurgency among the cobreros had finally forced their freedom through the Edict of April 7, 1800.[17] That resistance narrative was inserted in a larger revolutionary metanarrative of guerrilla action and liberation preceding and leading to the Cuban Revolution. In a Cuba by then playing down racial conflict or displacing it into the past and into other spots in the contemporary world, this was an acceptable, even compelling narrative (one that could even displace the general religious and cultural associations of El Cobre with the sanctuary to the Virgin of Charity there).[18] The narrative also resonated with a nascent 1970s and 1980s historiography of marronage and slave rebellions in the African diaspora especially in relation to the Haitian Revolution.[19] Although by no means inaccurate, Franco's account of marronage and insurgency was a simple narrative that contained and concealed other stories of mobilization, other venues for emancipation, and other notions of freedom tapped by the cobreros at the time. The cobreros' judicial mobilization, not to mention their involvement in a litigation of this magnitude, went for the most part unremarked in Franco's narrative.[20] The right historiographical context for the study of legal mobilizations had not arrived.

[17] Franco, *Las minas*.

[18] Díaz, *The Virgin, the King*, 2–5; Portuondo Zúñiga, *La Virgen de la Caridad*.

[19] Richard Price's classic anthology *Maroon Societies* (1st ed., 1973) was among the first works to open research on marronage. Eugene Genovese studied slave revolts in various locations in the Americas and argued that there was a revolutionary shift in their ideological orientation toward freedom and equality after the Haitian Revolution. See his *From Rebellion to Revolution* (1979). Since those decades, the literature on slave rebellions and conspiracies also saw a boom: marronage and rebellion now became the exemplary forms of slave resistance. For Cuba, see Childs, *The 1812 Aponte Rebellion* (2006); Barcia, *The Great African Slave Revolt of 1825*; Finch, *Rethinking Slave Rebellion in Cuba*. For the Caribbean, see Geggus, "Slavery, War, and Revolution" and more generally, Gaspar and Geggus, eds., *A Turbulent Time*. For a recent overview of these forms of resistance in the Americas, see Helg, *Slave No More*, 43–63, 90–109, 221–29, 245–73. For a more controversial and complex approach to slave rebellion, see Tomlins, *In the Matter of Nat Turner* ; see also Aptheker, *Nat Turner's Slave Rebellion*.

[20] Following Luciano Franco, more recent works on Santiago that make reference to the cobreros' mobilization in this period refer almost exclusively to marronage. See Belmonte, *Ser esclavo en Santiago de Cuba, 1780–1803*; Chira, *Patchwork Freedoms*. Though Chira's work focuses on legal actions in Santiago, she did not have access to the cobreros' lawsuit covered in this book.

A new turn in the scholarship of colonial Latin America to subordinate subjects' dynamic use of the law and a new body of work on law, slavery, and race in the African diaspora, spurred a new interest in me in the cobreros' freedom suit and in these villagers' deep engagement with the judicial system, which I, too, had sidestepped, at least in relation to this critical legal action. My previous book had focused on a different period and set of issues. And although in it I had called attention to the king's slaves' use of the courts in previous decades, I had not delved deeply into judicially related questions nor for that matter into a collective freedom lawsuit that had not come up before in the community's local history. The new historiography beckoned. Rather than focusing on abstract colonial legal regimes as many earlier studies such as those based on the famous Tannenbaum thesis had done, new studies turned to a more dynamic "law in action" approach focusing on litigants' *use* of the law.[21] Mirroring the more general shift in historical and postcolonial studies that placed subordinate subjects at the center of narratives as active makers of history, new studies located in the ample field of law, politics, and society focused on subordinate litigants' active use of the courts to make claims and contest rights.

Indigenous subjects, women, free people of color, and, particularly, enslaved people took center stage in this new line of work. Bianca Premo demonstrated the surge in civil legal actions filed by subordinate groups, including enslaved people, in different localities of colonial Latin America during the mid- to late eighteenth century as they increasingly turned to royal courts with their claims and protests.[22] This trend had its counterpart among enslaved subjects in North America after the American

[21] For a discussion on the problems of the Tannenbaum thesis, see the debate by de la Fuente, "Slave Law and Claims-Making in Cuba"; Diaz, "Beyond Tannenbaum"; and Schmidt-Nowara, "Still Continents," 339–76. For more dynamic applications of Tannenbaum, see McKinley, *Fractional Freedoms* and more recently, de la Fuente and Gross, *Becoming Free, Becoming Black*.

[22] Premo, *The Enlightenment on Trial*. Premo attributed the surge in legal actions in royal courts in Mexico and Peru to what she termed a "popular Enlightenment" manifested in colonial Spanish America (though not in the peninsula). I do not wish to enter the polemic on locations (or criteria) of the Enlightenment because, in my view, it tends to rest on linear notions of history, and ultimately, on a Eurocentric benchmark that other localities in the world supposedly meet, surpass, or lag behind on. For a critique of those arrow-based notions of history (to which scholars unwittingly return to) see Tomba, *Insurgent Universality*. However, the phenomenon of the surge is interesting and may be due to a multiplicity of reasons, including reactions to the disruptions created by the Bourbon reforms throughout the overseas empire. These disruptions may in turn have led to reformulations of claims in bolder terms or couched in more eclectic discourses as

Revolution, only to close down in subsequent decades in the Southern slave states.[23]

Enslaved litigants, as quintessentially oppressed subordinate subjects with few, if any, juridical protections garnered special attention in this new historiography as they came to emblematize the fundamental battle for emancipation (or at other times more modestly, for specific minimal human protections). A good part of this scholarly work called attention to the role of enslaved people in emancipating themselves, that is, to their strategies as "agents of their own freedom," especially through the legal venue of self-purchase or coartación.[24] Although at times there has been tension in the literature between legal actions conceptualized as accommodating, individual, or ineffective, and other forms of resistance such as marronage or rebellion seen as revolutionary, these actions should not be compartmentalized or opposed to each other in either-or terms.[25] As I claim in this book, judicial and extrajudicial actions such as marronage were entangled with each other in this case and ultimately emancipation and recognition as a pueblo would not have come about without their use as combined forms of political action. But I'm getting ahead of myself. In any case, regardless of the question of efficacy, judicial cases enable the historian to explore other kinds of questions regarding discourses, sources, and forms of mobilization.[26] The conflicts presented in these cases, and the terms in which they were presented, allow scholars to probe understandings of categories and rights that often remain implicit in social and political life.

happened in El Cobre's case. The reasons for the surge need further research as well as the discursive terms in which legal actions were cast.

[23] De la Fuente and Gross, *Becoming Free, Becoming Black*; William, *A Question of Freedom*.

[24] Hunefeldt, *Paying the Price of Freedom*; Aguirre, *Agentes de su propia libertad*; Chira, *Patchwork Freedoms*; Chaves, *Honor y Libertad*; and even earlier Scott, *Slave Emancipation in Cuba*.

[25] In colonial Latin American history, this polemic was once played out in the early 1980s with regard to Indian litigation by Stern in *Peru's Indian People* and Borah's *Justice by Insurance*. It runs even more strongly through the literature on slave resistance with the emphasis on rebellion. See Thomas, *A Question of Freedom*, 7–8. In some ways, the question of litigation constitutes a question of strategy in many movements to this day. It was discussed among abolitionists in the United States and today for many groups. It is an issue among Palestinians and their use of Israeli courts or international legal fora. For the latter, see Erakat, *Justice for Some*.

[26] Even if unsuccessful, the enormous tenacity, agency, and exertion that many subordinate litigants displayed in pursuing legal battles merit scholarly and popular interest in themselves. After all, rebellions were usually unsuccessful, and yet they do not lack scholarly attention.

Recent works on law, politics, and society in colonial Latin America have taken different directions. Some move beyond the tenet that subordinate subjects were active participants in legal conflicts by focusing on how they made law through their actions and the kind of cases they pressed on the court.[27] Others focus on the significance of briefs coauthored by plaintiffs and *letrados* (legal professionals) and the arguments deployed in them. New work like Karen Graubart's on the early modern Andean region begins to examine the interrelated intellectual production that such legal activity generated.[28] Comparative work by Ariela Gross and Alejandro de la Fuente explores questions of the relation between understandings of race and freedom across space and time, while Rebecca Scott goes a step further examining the challenges of legal mobilization across transnational legal regimes.[29] Microhistories, in their capacity to represent actors at a human scale (Braudel's short durée) and situationally in relation to an array of factors inside and outside the courts, have been rightfully acquiring much popularity as a genre.[30] A handful of new studies by Bianca Premo, Michelle McKinley, and Brian Owensby also examine the judicial apparatus of ecclesiastical and secular tribunals in the Spanish empire and the logistics of Spanish law to better convey what operating in the colonial judicial arena entailed.[31] If, as some scholars claim, a surge in subordinate subjects' legal suits, including freedom actions, took place in the late eighteenth century, another kind of surge has recently taken place in scholarship about them. *From Colonial Cuba to Madrid* draws from this growing body of work and then moves in other directions.

As I turned back to the archive to research the cobreros' late eighteenth-century collective freedom action, I found that the available

[27] Premo, *The Enlightenment on Trial*; de la Fuente, "Slaves and the Creation of Legal Rights"; Chira, *Patchwork Freedoms*; Yannakakis, *Since Time Immemorial*. In the United States, for free Blacks, see Jones, *Birthright Citizens*.

[28] Graubart, "Pesa más la libertad," 427–58.

[29] De la Fuente and Gross, *Becoming Free, Becoming Black*; Scott, "Slavery and the Law in Atlantic Perspective"; and Scott and Hébrard, *Freedom Papers*.

[30] Scott has been engaging in the genre in a recent series of works. See especially Scott and Hébrard, *Freedom Papers*; Scott and Venegas Fornias, "María Coleta and the Capuchin Friar." In the United States, see particularly McDaniel, *Sweet Taste of Liberty* and more amply, Thomas, *A Question of Freedom*.

[31] McKinley, *Fractional Freedoms*, on Lima's sixteenth-century ecclesiastic courts; Premo's *The Enlightenment on Trial*, on late eighteenth-century royal courts; Owensby, *Empire of Law*, on the Indian Tribunal of New Spain and on freedom suits in seventeenth-century tribunals, "How Juan and Leonor Won Their Freedom." See also Cutter, *The Legal Culture of Northern New Spain*.

documentation was richer than I thought. Tentatively, I began to make my way through the labyrinths of Spanish colonial plural law and jurisprudence. Slowly, I began to delve into the historiography of freedom suits and legal oriented studies on Latin America and the United States.[32] Against that backdrop, I gradually realized that the cobreros' freedom lawsuit was not a run of the mill freedom case. We know now that freedom suits, though by no means common or successful, took place in all the slave societies of the Americas regardless of their slave regimes or imperial background.[33] Although each freedom suit was unique in its own way, the cobreros' action was distinctive in more than one way. No other freedom suit on record involved so many plaintiffs in a single legal action; and whereas freedom suits everywhere tended to be individual or familiar, this emancipation claim was collective – more importantly, it was communal and corporate. Moreover, the plaintiffs of El Cobre took their judicial fight against enslavement beyond the lower colonial courts and Audiencia (high regional appeal court) where most freedom actions throughout the empire took place and filed it directly in the highest tribunal of empire in Madrid where it blended with issues of state. This multiple level of litigation triangulated the conflict and its judicial manifestations in important ways that transcend the usual binary

[32] Slaves made use of the courts for a range of claims. Only a portion of slave litigation were freedom suits per se. Major studies of slave litigation, especially freedom suits, aside from those referenced in the notes above include the following: Scott, "Social Facts, Legal Fictions, and the Attributions of Slave Status"; Schweninger, *Appealing for Liberty*; Schafer, *Becoming Free, Remaining Free*. For Peru: Arrelucea Barrantes, "Slavery, Writing and Female Resistance." For Mexico, Bennett, *Africans in Colonial Mexico*; Owensby, "Legal Personality and the Processes of Slave Liberty." For Brazil, Grinberg, *Liberata*, as well as *A Black Jurist in a Slave Society*; and "Freedom Suits and Civil Law in Brazil and the United States"; Townsend, "Half My Body Free"; Chaves, "Slave Women's Strategies for Freedom"; as well as *María Chinquinquirá Díaz*. In Cuba, Scott, *Slave Emancipation in Cuba*, began these studies. Castañeda Fuertes, "Demandas judiciales de las esclavas en el siglo XIX cubano." Document anthologies show multiple abridged cases. For Cuba, see García Rodríguez, *Voices of the Enslaved in Nineteenth Century Cuba*. See also Peabody and Grinberg, *Free Soil in the Atlantic World*.

[33] Consider the total number of enslaved people's actions in court – not only freedom cases – in different localities across time. Freedom litigants in Santiago de Cuba amounted to 104 individual suits in fifty years (1820s–1860s) in Chira, *Patchwork Freedoms*, 145. Cases of slaves acting as litigants (not just freedom suits) from 1750–99 amounted to 28 cases in Mexico City, 192 in Lima, and 48 in Trujillo, Peru, in Premo, *The Enlightenment on Trial*, 196. In the US South there were 2,023 freedom suits (1,360 at the county level and 663 appeals between the beginning of the American Revolution and the Civil War) most of them in the Upper South, in Schweninger, *Appealing for Liberty*, 3–4, for breakdowns in tables, see the appendix, 291–307.

framework of colonizers and colonized. Finally, even more significant in this remarkable legal action were the substantive issues that the case presented to the court regarding the meaning and reach of freedom rights for Afro descendants as natives of a pueblo.

In *From Colonial Cuba to Madrid*, I examine this transatlantic collective lawsuit and its derivative legal actions in the colony from various angles. The book explores three major themes: the more obvious one is concerned with the question of freedom, albeit in this case with the more controversial proposal of collective freedom. Related to the claim to collective freedom is the meaning of the category of natives of a pueblo and its alleged rights, an especially significant question in the case of Afro descendant subjects. The third theme deals with the politics of litigation and subordinate subjects' use of the courts in the context of Spanish colonialism and absolutism in the late eighteenth century. The focus on a single collective case (and its individual offshoots), rather than on an aggregate collection of legal actions as in most legal studies, not only provides the proverbial depth rather than breadth to the study, but it also allows me to better link the judicial sphere to its political and social context, including the often- overlooked Bourbon reforms in this region and the later geopolitical conflagrations of the 1790s in more specific ways. Finally, in interweaving these themes, this book not only attempts to bridge the usually compartmentalized historiographies of slavery, African descendants, Indigenous people, and colonial plural law in the field of colonial Latin America, but it also tries to broaden the scope of the study by relating the local to wider trends in the Spanish Atlantic world rather than remaining enclosed in separate national histories and historiographies.

THE CASE FOR COLLECTIVE FREEDOM AND RIGHTS: A DISTINCTIVE ARGUMENT

Legal mobilization for collective freedom in an increasingly pro-slavery climate like that at the end of the eighteenth century constituted an important form of political mobilization and activism by subordinate colonial and enslaved subjects.[34] In absolute monarchies with little if

[34] Even though new work holds that the law is pliable, that it offered openings for contestation, and that its customary aspects made it subject to community norms, it is important not to lose sight of its hegemonical character. If before legal action was often dismissed by many scholars as ineffective and almost irrelevant, now the pendulum risks

any space for political organization, expression, and mobilization in civil society, the courts constituted a main arena where debates over rights and justice formally took place, even if in restricted or summary ways. Several scholars of colonial Latin America have suggested that courts constituted a venue of political engagement for subordinate colonial litigants at the time, a point superbly exemplified in the case depicted in this book.[35] In his study of empires, Frederick Cooper also calls attention to different forms of challenging power from below. He warns us that if we are to study power in empires from below, we need to understand the importance of "making claims for resources, rights or access on an empire on the basis of belonging to empire."[36] Cooper adds that courts became an instrument through which Indigenous subjects in empires could become "legal actors" and manipulate the plural legal systems of empire. That is what the cobreros were up to when they filed their composite legal action in royal courts claiming freedom, land, and corporate rights as imperial subjects and as natives of a pueblo in the Spanish empire.

The two main themes that I cover in *From Colonial Cuba to Madrid* are the question of collective freedom and the significance of local nativeness and native rights in late eighteenth-century colonial Cuba and the Spanish empire. Both constitute related substantive issues in the legal action at the center of this book. I treat them through a discursive approach to the memorials, petitions, and depositions generated for the court, and, when possible, in their manifestation outside the courts too. As the first epigraph shows, Cosme wrote that the cobreros' freedom was so obscure and confused and so lost in the past that it had to be refounded. That effort would require revising the past and reappraising their present and future. This judicial action offered an opportunity for *letrados* (men of letters or of the law) and jurists to reflect on the legal and

swinging too much to the other extreme and regarding it as too flexible and conducive to self-emancipation. Going to court was very difficult. Furthermore, the very legal character of slavery itself and the asymmetrical power relations involved especially in that system was a fact – a point perhaps that made these freedom suits all the more admirable when they actually took place. That said, litigation-oriented studies can also illuminate the intense work and resources required to challenge the law as well as the social and political factors that enable such a contest. Even if ultimately doors to freedom through the tribunals remained closed, the failed and sometimes futile legal mobilization effort in itself is worthy of study.

[35] Owensby, *Empire of Law*, 5; Premo, *Enlightenment on Trial*; Taylor, "Between Global Processes and Local Knowledge"; Yannakakis, *The Art of Being In-Between* and *Since Time Immemorial*.

[36] Cooper, *Colonialism in Question*, 32.

political challenges that the cobreros' unusual story, experience, and claims presented. Although the arguments and assessments of the case that emerged in the plaintiffs' briefs and memorials were, of course, not necessarily accepted by the court, their interest resides in the novel approaches and interpretations they could produce and in their implications. The memorials also point to incipient antislavery critiques and alternative proposals to the expansive slave plantation regime surfacing at that time.

Regular freedom cases for the most part turned around a set of issues regarding genealogy of maternal ancestry (sometimes explicitly linked with race, especially in the United States): unkept promises of masters in life and postmortem, terms of manumission and coartación (self-purchase), conditional or quasi possession of freedom, wrongful enslavement (including re-enslavement), and touching free soil. Obviously, the significance of these legal emancipation actions varies, for instance, regarding the master's own disposition and will to manumit in any given case. More profound principles undergirding a case were usually left implicit as suits focused on more narrow legalistic issues.

In the Iberian Atlantic, the closest a case tended to come to a conflict over foundational principles was in the invocation of the jurisprudential question regarding the extent to which the juridical and moral injunction that magistrates should "always favor freedom" (versus dominium or property rights) apply in any given case, if at all.[37] This was a first principle of justice enshrined in Spanish medieval legal sources that courts often struggled with in freedom suits; but as with other principles, it was malleable and subject to various interpretations and applications as the case of El Cobre will show. Did the confusing and indeterminate status of cobreros, or the fact that they had lived and acted in various ways as free for a long period of time, favor their freedom according to this juridical and philosophical rule? Or could having once lived as free or quasi free as in the cobreros' case be thereafter reversed into the inferior state of slavery? Questions could also be raised in this case regarding the force of customary norms versus ambiguous principles in written law: whether, for instance, royal slavery was the same as private slavery since it did not

[37] *Las Siete Partidas*, Book 7, Title 33, Law 13 briefly mentions a general "rule" (not a positive law) grounded on natural law: "It is proper rule [*regla derecha*] that all judges should favor freedom [*ayudar la libertad*] because it is a friend of nature and loved not only by men but also by all animals." This principle also enshrined in the Portuguese Ordenações Filipinas (1603) and earlier medieval codes was also invoked in myriad ways by lawyers in nineteenth century Brazil. See Grinberg, *A Black Jurist*, 55–57.

entail private dominion (which is how many cobreros read their standing). Of particular interest in El Cobre's case, however, was a novel dilemma based on what rights should have preeminence: private property rights over people and land, Crown prerogatives based on public utility and reasons of state, or the (natural) rights undergirding the bonds of nativeness to land and pueblo community that were brought to bear in this case. The cobreros' briefs and memorials were multilayered and included legal, moral, and policy-oriented arguments, making them rich sources to understand priorities in the thinking of the time.

Freedom is an abstract term that has myriad specific historical meanings and manifestations across time and place. Freedom suits, particularly those of wrongful enslavement such as this one, constitute ideal vehicles for probing understandings and criteria of freedom in various historical contexts.[38] Even better, they allow us to examine the range of acts that were reclaimed as rights of freedom in different localities.[39] The cobreros pressed on the court a series of local customary practices and arrangements that had been established through the decades, but re-configured them now as criteria of freedom and as freedom rights that could not be revoked. The implicit and explicit "rights" – or claims to rights – asserted thereby were not necessarily articulated in the modern terms of Enlightenment discourse, however.

Above all, the criterion of freedom that distinguished this case from other more standard freedom legal actions was the claim – turned into argument – that belonging to a pueblo constituted a way of enacting and producing (or prescribing) freedom, and of doing so collectively. Here the

[38] Rebecca Scott's article, "Social Facts," beautifully addresses these issues that have jurisprudential relevance in disputes of modern slavery. For performances of freedom and race, see Gross, *What Blood Won't Tell* as well as "Beyond Black and White." Tamar Herzog makes the point of performance in relation to the categories of nativeness (*naturaleza*), vecino, and vassalage, which were not explicitly parsed in legal codes. *Defining Nations*.

[39] For the US South, Laura Edwards has argued that after the American Revolution, the language of rights was avoided at the local level in favor of that of "the Peace" and that the legal rights language that appeared at the state and federal level related to constitutional and natural rights discourse excluded women, Blacks, and minors. Edwards, *The People and Their Peace*. I argue that in colonial Cuba (and the Spanish empire) a language of rights undergirded freedom claims of African descendants, as per some of the memorials on behalf of the plaintiffs. At other times, the freedom claims were more customary or made in terms of the "king's" orders and law. For a more Enlightened-oriented rights language in late eighteenth-century colonial Latin America, see Premo, *The Enlightenment on Trial*. Tamar Herzog also uses the language of rights in discussing the meaning of nativeness and *vecindad* (local citizenship) in *Defining Nations*.

case entered new terrain. At stake was an innovative claim based on notions of corporate belonging in the Spanish Atlantic world especially related to municipal bodies like a pueblo. Helen Nader in *Liberty in Absolutist Spain* claims that municipal autonomy represented "one of the highest aspirations of Castilian political life" and remained the main way through which Castilians, especially in small towns, thought about and exercised freedom from the sixteenth to the nineteenth century.[40] One of the briefs on behalf of the natives of El Cobre presented to the court further parsed an important distinction between civil and local political freedom that drew out explicitly the implications of living as a municipal corporation, the space in which limited sovereignty and political rights could be enacted locally in an absolute monarchy. In this iteration, the cobreros had not only enjoyed individual civil freedom in the past, but as natives of a pueblo they had collectively enjoyed political freedom rights too. I draw out the bold implications of this claim for Afro descendants at large who at most could only enjoy civil freedom and rights in the empire.

NATIVE BONDS AND RIGHTS

The cobreros' freedom arguments were linked to the notion of naturaleza (nativeness) widespread in the Spanish Atlantic world and more specifically to local nativeness in a pueblo. Here the cobreros' freedom suit suggests novel questions that lead my study in yet other directions. Nativeness in the Spanish Atlantic was a category of belonging primarily (but not exclusively) defined by birth, descent, and co-residence in a political community and territory. Its general ideological meaning goes back at least to the medieval *Siete Partidas* (epigraph 3). According to this conception, being native of a place created "natural" affective bonds of solidarity (or "love") among those sharing a territory and the municipality constituted the basic political unit of place on which local nativeness was literally grounded. The identity of "cobreros" was the vernacular analogue of the formal term "natives of the pueblo of El Cobre" and thus a local identification pressed on the court from below. Although in this book I examine some of the vernacular manifestations of the cobrero identity on the ground, I probe especially the use of the term "native" of a pueblo in the legal briefs and the claims made through the category.

[40] Nader, *Liberty in Absolutist Spain*, 8.

The term "native" was a common identifier in colonial records that scholars have taken for granted as a mere descriptor of place of birth and little else. But on closer inspection, nativeness was a capacious and flexible discursive category that could do different things and could be mobilized in different ways. In her book *Defining Nations*, legal historian Tamara Herzog has shown that the social terms *natural* (native) and the related one *vecino* (resident or citizen) were basically legal constructs that carried rights and duties that could vary across time and place in the Spanish Atlantic world.[41] According to Herzog, the categories' implicit meanings surfaced especially in court disputes over rights and duties. It is through these sources that she reconstructs the variable meaning of these categories in Castile and the Spanish overseas empire during the seventeenth and eighteenth centuries mainly in relation to the construction of Spanish nativeness. Herzog argues that although originally linked to a local municipal polity (pueblo, town, city), the term "naturaleza" became more elastic and evolved into supralocal forms of belongings (province, kingdom, empire) that converged in the identity of "Spanishness" across the Atlantic and across kingdoms in the peninsula.[42] However, in focusing on the supralocal Spanish native identity that emerged in the overseas colonies during the sixteenth century and that was enacted in the Spanish republics in America, Herzog stopped short of examining the uses people of color made of the category locally in the overseas colonies. Although Herzog rightly points out that Indians, Blacks, and racially mixed subjects were excluded from the category of Spanish nativeness, we know that these excluded racialized subjects were also regularly identified, and they self-identified, as natives and vecinos of (Spanish) republics (municipalities) such as Santiago, Havana, Sancti Spíritus in Cuba, or in Lima, Cartagena, or Mexico elsewhere in the empire; that is, they identified as natives of the locality in which they were born, raised, and resided. What, if anything, did local belonging as natives in Spanish republics in the

[41] Herzog, *Defining Nations*.

[42] The scope of the term nativeness could be elastic. Although the main referent in this study is the local pueblo or city, nativeness could apply concurrently to broader entities such as kingdom (as Castile or Aragon or later America); province, country, nation, as in the Spanish nation; and even empire. At times it referred to even broader regions such as Africa or, in the case of Indians, to natives of the Indies. Nancy Van Deusen, in *Global Indios*, has shown several broad usages of *naturaleza* in sixteenth-century Castile to determine provenance of enslaved Indian subjects and possible criteria for emancipation. In some recent work Herzog revisits the category of Indian nativeness structurally in terms of static (Spanish) legal doctrine, rather than in local terms or in dynamic disputation. Herzog, "Colonial Expansion" and "The Appropriation of Native Status."

Americas mean in the cases of racialized and otherwise excluded non-Spanish subjects? Did they invoke nativeness in their legal and vernacular actions? If so, for what purposes and to make what kind of claims? These are the kinds of questions that Herzog's study triggered for me but that her focus on other issues of interest did not address.

Although, in covering Spanish America, Herzog mostly focuses on the Spanish community, with some summary coverage of Indian republics, I use her approach in *Defining Nations* as a starting point but take my inquiry in other directions. Like Herzog, I argue that this category was also used to assert rights and make claims. But in my book, I focus on the dynamic uses of the term "native" of a pueblo in the case of the inhabitants of El Cobre who were not part of a Spanish republic. The cobreros' case shows the social, legal, and political importance of this category and how it could be mobilized in different ways by non-Spanish racial subjects to make claims. Yet, as mentioned before, nativeness was a capacious identity that especially by the seventeenth and eighteenth century could take on supra local meanings too. Yet, supra local meanings of nativeness did not displace local ones; they coexisted and were used in different contexts. Although I also explore the deployment of some of these broader meanings of belonging to make solidarity claims with subjects beyond the local polity, this study is focused for the most part on the local invocations of nativeness by the cobrero plaintiffs and the social, political, and legal meaning attributed to that identity in their judicial briefs.

And yet, the cobreros' case becomes more complicated – and fascinating – due to ambiguities in the meaning of native or *natural* in the overseas empire where it also referred to Indianness or Indigeneity, another meaning that was also wielded ambiguously in the court briefs of the natives of El Cobre.[43] In this formulation, the natives of El Cobre had Indian ancestry, or had coexisted with Indians as natives of El Cobre

[43] Indigeneity is an encompassing modern term that refers to a late twenty and twenty-first century resurgence (and reinvention) of Indigenous identities and movements in a globalized neoliberal world. The movements are political and cultural; they also seek legal grounding and expansion of rights in international human rights law and new constitutions. Recent scholars have been historicizing the category and examining its legal deployments and underpinnings in different historical contexts. I will be using the terms Indianness, Indigeneity, Indigenous and (Indian) Natives more or less indistinctly here. It is understood, however, that all of these terms constituted historical constructions based on Spanish law though subject to variation and disputation on the ground. For the exploration of global manifestations of these resurgent movements, see Clifford, *Returns*, especially 13–32. For the national period, see Earle, *The Return of the Native*. For the colonial period, see especially Yannakakis, *Since Time Immemorial*; Premo, *The*

in the past, or by legal analogy had a similar standing to Indians by virtue of their customary living arrangements. Although Indigenous nativeness entailed a subordinate colonial status, conflating natives of a pueblo with Indigeneity provided a legal opening to assert free status, land rights, and a protected corporate pueblo status for African descendants and racially mixed cobreros in this case.

The invocation of nativeness as Indianness in Cuba is particularly interesting given the fading presence of Indigenous people resulting from the demographic collapse and "great dying" brought about by the Spanish conquest during the early sixteenth century. Yet, there were at least two pueblos with official Indian native pueblo protected status in eastern Cuba – San Luis del Caney in the environs of El Cobre and San Pablo de Jiguaní near Bayamo – that could have served as models for allusions to nativeness through Indian ancestry in El Cobre's case (see Figure 0.1). There were also vernacular stories circulating in the village and region regarding the relation of Indians and former Black slaves as natives of El Cobre. I argue that in invoking nativeness, the cobreros' case bridged plural regimes of colonial slave and Indigenous law and race norms in heretofore unexamined ways.

With some exceptions, the intersectionality between Afro descendant and Indigenous legal and social regimes has barely begun to be probed by historians of colonial Latin America.[44] In the United States, a number of recent studies examine how slave litigants used Indigenous maternal ancestry as a way to claim freedom in the courts of the new American republic.[45] More recently, a subfield of Black Indian studies has emerged in US historiography that focuses on Black slave, freedmen, and Indian relations, rights, and conflicts of belonging in Indian reservations in the past, in some cases with ongoing conflictive implications to this day.[46] But there is still little along those lines in the Latin American scholarly literature. For colonial Spanish America, Karen Graubart has keenly

Enlightenment on Trial, 159–90; Penry, *The People Are King*. See also Herzog, "The Appropriation of Native Status."

[44] The displacement of Blackness into the "Indio" category among Dominicans has been noted for the modern period in the Dominican Republic but not sufficiently probed in the past. See Torres-Saillant, "The Tribulations of Blackness," 126–46.

[45] Gross, *What Blood Won't Tell*; de la Fuente and Gross, *Becoming Free, Becoming Black*, 95–98; Sachs, "'Freedom by a Judgement'"; Wallenstein, "Indian Foremothers"; Ablavsky, "Making Indians 'White'"; Vandervelde, *Redemption Songs*, 39–56.

[46] See among others, Miles, *The House on Diamond Hill* and *Ties That Bind*; Littlefield, *The Cherokee Freedmen*; Saunt, *Black, White, and Indian*; Chang, *The Color of the Land*.

explored attempts by an African descendant petitioner to claim the rights of Indian status in early colonial Peru (with negative results).[47] Matthew Restall has documented the presence of both groups in Yucatan, though ultimately he treated them separately.[48] More recently, Marcela Echevarri has brought these groups together by comparing their royalist alignments during the Independence wars in Popayán and their sharing of a colonial discourse based on the king's protection and justice that went back to earlier colonial times.[49] This kind of alignment applies to the cobreros' case to an even greater degree given their century-long trajectory as the king's slaves and their interpretation of that standing. But the imbrication with Indigeneity in El Cobre's case comes up in even more complex ways through overlapping corporate identifications and analogies in the logistics of judicial argumentation and mobilization. Although plural regimes existed that separated the experiences of Spanish, Afro descendants (free and enslaved), Indian, and racially mixed subjects (*castas*), their legal boundaries were sometimes bridged, or implicit claims were made for their social and legal expansion or reconfiguration as the cobreros' case shows. Emerging liberal tendencies in the Spanish Atlantic during the nineteenth century, however, would erode plural regimes and the protections and rights that Indigenous corporate municipal entities could invoke (or reinterpret) through plural law. In this sense, El Cobre and the two Indian pueblos of eastern Cuba would face similar challenges in the emerging era of liberal trends under Spanish colonialism in the nineteenth century (Chapter 9).

Overall, in *From Colonial Cuba to Madrid*, I argue that the plaintiffs' use of the term "natives of El Cobre" straddled both Spanish/Castilian and Indigenous socio-legal regimes and that there was an unresolved tension and ambiguity between these two notions of nativeness that could be mobilized to claim rights in the case of this unconventional community of African descendants. I push the end point of this study to the period of the Cádiz Constitution of 1812 to examine to what extent the civil and (local) political freedoms aspired to by the cobreros as natives of a corporate pueblo – eventually obtained in the Freedom Edict of 1800 – fit into the new liberal scheme of belonging to the greater Spanish nation

[47] Graubart, "Pesa más la libertad," 427–58. See also O'Toole, *Bound Lives*.

[48] Restall, *The Black Middle*; Landers in *Black Society in Spanish Florida* has documented Spanish use of communities of both groups for defense purposes and work exists on the friendly and hostile relations between these groups as part of a wider US historiography.

[49] Echeverri, *Indian and Slave Royalists in the Age of Revolution*.

and its (short lived) project of democratization through the expansion of local political citizenship rights. I end the study by examining the issues that the natives of corporate communities such as El Cobre and the two other Indian pueblos in eastern Cuba faced as new and old Atlantic and colonial forces converged in this region in the nineteenth century.

THE POLITICS OF LITIGATION

The third theme examined in *From Colonial Cuba to Madrid* focuses on the politics of legal action as they played out in this case. As mentioned before, legal actions constituted a form of political action through which imperial subordinate subjects could use the law to make claims on royal courts. Scholars have casted coartación and other individual freedom legal processes as forms of self-emancipation within the framework of slavery. But the cobreros' action was even more consequential due to the magnitude of the collective mobilization involved in this case, the corporatist discourse and freedom rights that plaintiffs invoked, and the implicit and explicit critiques of slavery that appeared in their briefs. Politics, as this case shows, imbued the litigation conflict at different levels, both inside and outside the courts – and it could not have been otherwise given the increasing centrality of issues about slavery and freedom at the time.

The cobreros' social bonds and (informal) organization as a pueblo enabled their strong collective action in the legal arena. In that sense, their situation placed them closer to the experience of Indigenous subjects who litigated in common as corporate entities than to African descendants who usually did not live in that kind of formation. The cobreros empowered Gregorio Cosme Osorio (first epigraph), a freedman and native of the pueblo, to be their apoderado in the royal court in Madrid, a rare liaison position for a colonial man of African or Indigenous descent in the imperial capital and another extraordinary aspect of the case. Yanna Yannakakis's research on Indigenous intermediaries has shown the agency of Indian colonial subjects in legal actions and the predicaments they faced in colonial courts. José Carlos de la Puente Luna and Alcira Dueñas have shown that some Indigenous and Mestizo litigants made it to Madrid, but not enough is known about their actions in the royal court.[50] Cosme, in particular, but also his local counterparts in El Cobre, took the role of legal representation to a new level, especially

[50] Yannakakis, *The Art of Being In-Between*; de la Puente Luna, *Indigenous Cosmopolitans*; Dueñas, *Indians and Mestizos in the "Lettered" City*.

for African descendant litigants. The close examination of their activities in this book throws further light on subordinate litigants' possibilities of mobilization in transoceanic and transregional royal court networks. Cosme's extant correspondence with the community constitutes an extraordinary source that allowed me to document his political and legal agency in Madrid and to probe his views on the law and the community's case.

In Cuba, individual enslaved and runaway cobreros in different towns also accessed the courts for hearings when lower instance courts offered openings. In this sense, the conflict went beyond its epicenter in Santiago and became a widespread legal action across various cities on the island and involved a broad series of actors: cobreros, slaveholders, magistrates, notaries, attorneys, witnesses, and, overall, lay people who heard and saw edicts posted calling for the hearings. The cobreros' legal mobilization, therefore, took place at different levels in colonial and imperial tribunals resulting in an extensive trans-local and transatlantic action that required wide ranging networks of communication.

Although in this book I focus mainly on different aspects of the cobreros' legal action, I show that political action on their part also took place through extrajudicial actions such as civil disobedience, marronage, and even armed ambushes to recover captured cobreros. Even though these actions are usually treated separately in the historiography of emancipation and resistance to slavery, I show that they were entangled with judicial actions and impacted each other. Rather than a mere flight from slavery into an elusive freedom, these combined actions were part of a broader political action that affirmed specific agendas of freedom.[51]

In *From Colonial Cuba to Madrid*, I also examine the political considerations that informed shifts in court decisions at the imperial level between the 1780s and the 1790s. Geopolitical factors such as the Revolution in Saint Domingue and imperial war with the British added a new and broader political context to the case in the 1790s. The larger question of Saint Domingue that haunts the historiography of the Age of Revolution in the Caribbean also comes up in this case. Did Saint Domingue have an impact on the cobreros' mobilization for freedom?

[51] The initial and classic empirical studies are presented in Richard Price, ed. *Maroon Societies*, but the literature is extensive. For Cuba, see La Rosa Corzo, *Runaway Slave Settlements*. For more theoretical reflections of marronage, see Edouard Glissant's cultural classic, *Caribbean Discourse* and more recently, from a political theory perspective, Roberts, *Freedom as Marronage*. For a discussion of this issue, see Chapter 7.

Launched in the early 1780s as a response to the Crown's privatization of El Cobre, this lawsuit represented a reaction against the effects of that Bourbon policy and the new order of unbridled slavery expansion rapidly becoming dominant. The radical revolutions in France and next door in Saint Domingue that abolished slavery and extended the rights of man in a universalizing way did not materialize until the 1790s, a full decade after the cobreros' freedom suit began to run its course in Cuba and Madrid.[52] The cobreros' response represented a legal and political mobilization within the Spanish Atlantic that challenged with its own discursive and legal tools the approaching tsunami of slavery expansion early on in the game – and as I argue in the book, it even presented an alternative to the plantation regime on the rise. The revolution in Saint Domingue cast its influence over the cobreros' case indirectly and influenced the outcome of the case in 1799 due to imperial security concerns. But the significance of some of the cobreros' freedom rights arguments and proposals were distinctive, even radical, in their own terms, as I hope to show in this book. Some of them have reemerged in the late twentieth century in other localities of Latin America under upgraded democratic constitutions as I point out in the Conclusion.

SOURCES AND ORGANIZATION OF THE BOOK

The small pueblo of El Cobre has a disproportionally large presence in the imperial state's archive. Most of the available local documentation regarding the case – including local censuses (*padrones*) and even baptism records – was forwarded to Madrid for the adjudication of the case. The lawsuit itself generated its own harvest of legal records – petitions, briefs, memorials, depositions, rulings – that document the legal process and the issues under contestation. Other documentation in the dossier was generated at different levels of empire and by different groups and stakeholders in the conflict: policy deliberations in the Council of the Indies; representations by the heirs, colonial correspondence between governors and captain generals, the bishops and clergy's reports, *autos* of court hearings and trials in the colony and in Madrid. The record even includes

[52] For the radical significance of the claims for universal freedom and citizenship posed by the revolution of Saint Domingue and the other French colonies, see Dubois, *A Colony of Citizens* and *Avengers of the New World*. For the paradoxical relation of Cuba and the Haitian Revolution, see Ferrer's *Freedom's Mirror*. For a discussion on the indirect influence of the Haitian revolution in the cobreros' legal case, see Chapter 8.

correspondence between the cobreros in El Cobre and Madrid. Such a compilation would have been virtually impossible to assemble by a single historian (at least until the archive is fully cataloged and digitalized). In short, this dossier, located in the imperial General Archive of the Indies in Seville, constitutes a true mine (so to speak) of documentation on a local community of racialized colonial subjects' engagement with the imperial judicial system. Additionally, I have made use of documentation scattered through other sections of that archive and, especially for the nineteenth century, to documents in the National Historical Archive in Madrid.

The chapters in this book examine from different angles and points in time the relation of law, politics, and society undergirding the conflict at the center of this book. On "genre," rather than casting the work in a single genre, say a narrative approach, the book alternates microhistory, narrative, and discursive analysis to explore various aspects of this action. Topics covered in the first two chapters relate mostly to the political and social contexts that gave rise to the legal action filed in Madrid in 1784. Focusing on the relation between imperial, colonial, and local levels, Chapter 1 opens by tracing the imperial logic informing the Bourbon Crown's decision to privatize the mining jurisdiction of El Cobre, that is, with the process of making law and policy according to the imperial state's reform imperatives of the time. A growing demand for slaves in the colony and a stronger interpretation of slave law and property rights led instead to an island-wide traffic of enslaved cobreros.

Chapter 2 turns to the local level of the pueblo of El Cobre and its response to the privatization order. It examines the unorthodox character of this community that exposed it to the enslavement actions of 1780 and the villagers' vernacular collective self-identification as "cobreros" – natives of El Cobre – with which they countered their captivity. The chapter then turns trans-local as it traces the cobreros' apoderados travails to reach the imperial court from colonial Cuba and the networks created to do so.

The next three chapters turn to various aspects of the judicial battle itself. Chapters 3 and 4 are central to the book. Based on discursive analysis, they focus on the memorials produced in Madrid and the colony to mount the plaintiffs' case. Whereas Chapter 3 examines the battery of legal tools deployed in the plaintiffs' memorials to buttress their case for collective freedom, Chapter 4 focuses on the meaning and deployment of the novel category of "natives" of a pueblo to bolster their claims. It also

compares the unconventional standing of El Cobre with that of the Indian pueblos of El Caney and Jiguaní in the island's eastern region to explore the cobreros' equivocal claims to Indian ancestry.

Chapter 5 turns to the law in action and the politics of litigation involving adjudication and conflictive interpretations of the law. The chapter opens with an examination of the Council of the Indies' confusing response to the freedom memorial filed in Madrid in 1784. The ruling gave way to a cascade of legal actions in lower-level colonial courts contesting its actual scope and application. Ordinary enslaved and fugitive cobreros dispersed throughout the island, and not just in El Cobre, became direct participants in the judicial arena at this point as they directly engaged in the politics of litigation.

The following chapters move forward in time from the 1780s to the 1790s, a period when a shift began to take place regarding the case at the imperial level. Cosme's extant letters from Madrid from 1795 are the focus of Chapter 6. They provide a close view of a cobrero leader's legal and political views on the case, the effect his letters had on the community, and his crucial role as liaison between the court and his home pueblo. Chapter 7 moves back to the colony. Here the story of legal action merges with one of extrajudicial actions such as fugitivity and more violent action and shows how judicial and extrajudicial actions were intertwined. Factoring into the escalating threat of violence and political conflict on the ground was the broader Atlantic context of revolution in Saint Domingue and war with the British during the 1790s. Chapter 8 goes back to the imperial state level to examine the legal and political logic informing the final adjudication of the case in 1799 in favor of the cobreros' freedom, yet with several caveats. The chapter ventures into the immediate aftermath of the Edict of 1800 to examine the immediate challenges that emerged in the actualization of the decreed emancipation.

Focusing on the afterlife of the Freedom Edict of 1800, Chapter 9 moves the story into the nineteenth century: into a period of imperial crisis, the emergence of liberal trends in the empire reflected in the Cádiz Constitution of 1812, as well as of new stakeholders in the region's historical context such as French refugees from Saint Domingue and British miners. The chapter focuses on the problems the emancipated cobreros faced in actualizing a corporate community model along the lines of colonial Indian law in the new liberal-oriented historical context. Questions about native rights, race, and citizenship, about civil and

political rights and about corporate and individual land rights emerged in this new political context. The book concludes with a reflection on the significance of the category of local nativeness for racial colonial subjects and the political uses and rights claimed for this category in changing historical contexts in the past and its reemergence in various Latin American nations in the late twentieth and early twenty-first century.