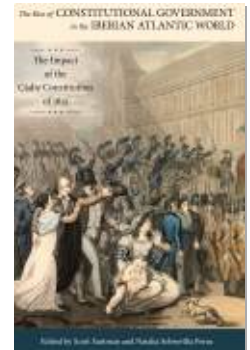




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4 / Race, Citizenship, and the Cádiz Constitution in Popayán (New Granada)

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During the last two decades, as interest steadily grew around the bicentenary of the 1812 Cádiz Constitution, historians of Spain and Latin America produced a remarkable number of works that brought into clear relief the importance of this charter for Hispanic Atlantic history. Most of these studies sought to recover the roots of Hispanic modernity, tracing a connection between the transformations of Spanish rule during the years 1810 to 1814 and the history of liberalism across the Hispanic world. For the historiography on both sides of the Atlantic, including the 1812 Constitution as part of the political process that took place in the early nineteenth century represented a way of reuniting or stitching back histories that were torn apart during those same years by the emergent—and ultimately triumphant—nationalist historiographies. Nationalist histories stressed cultural distance between Spain and its colonies and also remarked on Spain's regrettable and negative legacies over Spanish American nations. In the revision of these tenets, historians have given early Hispanic liberalism a central place in the genealogy of national politics across Latin America. Simultaneously, historians have proved the centrality of American politics for the process of imperial liberal reform that took place between 1810 and 1814.¹

How the Cádiz Constitution reflects the interrelation between the peninsula and Spanish America during the monarchical crisis has been explored from different perspectives. One is the philosophical or ideological approach, which focused on the search for the underlying principles that guided the Spanish resistance to Napoleon and led to the drafting of a constitutional document in Cádiz. Another approach has been to look beyond the realm of ideas to provide the social context to the constitutional debates and legislation that came out of the first Hispanic parliament between 1810 and 1813.

Studies about constitutionalism and the legislation by the Cortes have contributed to understanding the process of production of the first Hispanic charter. These studies have taken us inside the constitution and laws, exploring

the law's political essence, its contradictions, and its limits. Through the detailed examination of the debates and negotiation, which left specific imprints on the laws and decrees, such studies have explained the crucial compromises arrived at by deputies in Cádiz as they sought to balance American and peninsular interests.

Thus, the law did not simply emerge from the debates among peninsular and American deputies in Cádiz; these debates were linked to complex social and political dynamics in the Americas, which are also part of the history of the Constitution. Indeed, as the debates themselves show that the history of the Constitution is not limited to the peninsular parliamentary spaces, these studies have established connections between the American background and constitutional history during the 1810s. However, Spanish American social and political dynamics molded not only the elaboration of the first Hispanic constitution, but also its implementation.

One way of examining Spanish America's role in the elaboration and implementation of the constitution is through the lens of race. Of course, race is not an exclusively American issue, but it is certainly one of the prominent themes that emerge in connection with the Americas.² My point of departure in this chapter is that the links between race and the Cádiz Constitution are crucial and still deserve more nuanced attention. I argue that we should not limit ourselves to the question of how social and racial conditions marked the drafting of the Constitution and liberal laws but go beyond to look at the implications of *gaditano* liberalism in the American context, among a variety of social groups. From this broader view, the history of the Cádiz Constitution is not homogeneous, however; the period presents us with the challenge of integrating divergent histories across the American territories that were either royalist or insurgent. For example, places like Argentina have a tangential relationship to the rule of the Cádiz Cortes, while Peru or Panama are examples of the complex effects of Spanish liberalism on the American political (and military) landscape of the time. This means that in the cases where the 1812 charter was put into practice under the royalist government, such as Quito or Panama, it is possible to study the Constitution as part of the history of the colonial government in Spanish America.

By thinking about this process within and not outside imperial history, we do not measure Cádiz's legacy against the process of national formation (as most historians have done) but explore its relationship with colonial categories of difference.³ The links between Cádiz, race, and citizenship speak about the transformation of imperial categories of rule and political subjectivities; yet it is also important to contextualize the legal reform along with the military avenues that during the period emerged for people in Spanish

America to define their view and practice of citizenship. This is particularly important, as we will see, in the case of Afro-Latin Americans.

The focus on Popayán, a royalist region in Andean New Granada where Indians and people of African descent were crucial defenders of the Spanish government, will provide a counterpoint to interpretations of Cádiz tied exclusively to postcolonial history. While sources that reveal free blacks' appropriation of the Constitution in this region are scarce, I will advocate the need for further research on this subject with the goal of expanding our knowledge of the uses that people of African descent gave to the new tools offered by the Constitution. My study of the ways in which indigenous politics were altered by the Cádiz charter will also illustrate how we can expand our understanding of the implications of the Constitution beyond institutional transformations inaugurated by the legal change. In other words, for both the cases of Indians and people of African descent, we can and should investigate the aspects of their politics that were compatible with actual possibilities for expanding their rights in an imperial context based on the specific political histories of these groups.

The challenge of focusing on race in this period is to separate the imperial construction of race, or "racialization," that took place in Cádiz from the colonial dynamics that involved the participation of Indians, slaves, and free blacks in giving form to racial identities based on local trajectories.⁴

From Ideology to Politics in Studies of the Cádiz Constitution

Philosophical or ideological histories of the Cádiz Constitution were first produced by scholars writing in Spain during the second half of the twentieth century, such as Federico Suárez Verdeguer and Joaquín Varela Suanzes.⁵ They were particularly concerned with understanding the "doctrinal" orientation of the deputies in the Cortes, whether they had absolutist or liberal inclinations. The goal of these historians was simultaneously to prove that liberalism emerged from within the Hispanic tradition of government and to measure the extent to which liberals predominated in the Cortes. The early works of Suárez Verdeguer, along with Varela Suanzes's later work on the state, leave no doubt about the autochthonous nature of Hispanic liberalism. They also reveal that the very fact that Americans were given a voice in the first Hispanic parliament became an essential marker of the 1812 Constitution.

During the late twentieth century, a new wave of historians who returned to the Cádiz Constitution wrote studies that grounded philosophical questions on the social and political realities contemporary to the Cortes meetings. Focusing on the participation of American deputies in the Cortes, Marie

Laure Rieu-Millan studied the particular way in which American interests filtered into the constitutional debates and the Constitution. The debate about the social and juridical status of the *casta* populations was at the core of the confrontation, and negotiation, between American and peninsular deputies.⁶ Manuel Chust also wrote about “America in the Cádiz Cortes,” singling out slavery, *mita* (forced labor recruitment of Indians in rotation), and *encomiendas* (grants of Indian labor) as transatlantic issues strategic to dismantling the seigniorial state and creating a Spanish “nation.”⁷ José María Portillo convincingly argued that the meaning of Hispanic liberalism varied depending on which side of the Atlantic people stood. For deputies in the peninsula, it offered a means to challenge the Crown’s preeminence, yet few of them envisioned expanding the prerogatives of Americans to participate equally in the reformed liberal empire.⁸ In a fascinating example of the disparity between views on liberal reform, Scarlett O’Phelan wrote about the different interpretations that two Inca nobles had of the prospects of tribute (Indian head tax) abolition—with Dionisio Inca Yupanqui advocating for this measure as a deputy in the Cortes, and Mateo Pumacahua striving to avoid its application in Cuzco.⁹

The social turn in studies of the Cádiz debates and Constitution have given philosophical and doctrinal issues a deeper political meaning. From this perspective, the study of Hispanic liberalism is not exclusively a question of ideas but, rather, requires exploring the Spanish American social and political worlds. The exclusion of the *castas*, who accounted for a massive percentage of the population across Spanish America, was also a means of reducing the representation of American deputies in Cádiz. The concept of race becomes crucial for understanding why the American deputies debated the integration of Indians and *castas* in sometimes violent ways; why this topic proved to be political from the perspective of the *peninsulares* as much as it was for the Americans who held conflicting views; and the resulting articles contained in the charter that pertain specifically to Indian or Afro-descendant populations.

The definition of citizenship in the Spanish American territories was a critical issue in Cádiz. The logic underlying privileging people of Spanish and indigenous ancestry for citizenship was highly politicized, as seen in the Cortes debates. Part of this logic referred to the Hispanic understanding of purity of blood that regarded *castas* as impure and Indian and white as core racial categories.¹⁰ However, there was also an innovation in the exclusion of *castas* and blacks from citizenship between 1810 and 1812. The exclusion was grounded on a more recent tendency to equate blacks with slaves, in the context of the rise of the slave trade in Spain’s Caribbean colonies. Between the

late eighteenth and nineteenth centuries, with the increase in the number of plantations and Spain's incursions into the slave trade, racial connotations of people of African descent turned away from the previous tolerant model that had characterized Spanish American contexts, when the Crown created avenues for free people of color to assimilate and mobilize socially. In other words, the liberalism of the Cádiz constitutional debates was complicit with slavery's expansion.¹¹

Since the Constitution explicitly granted citizenship to indigenous people while it excluded people of African descent from this right, modern scholars have mirrored this imbalance in the treatment of Indians and black people in connection to *gaditano* constitutional politics. Given that Cádiz sought to reform government and administration, a crucial object of inquiry has been the rise of elections and citizenship following the Constitution. For example, many historians have studied the particularities of Indian citizenship within the new constitutional framework.¹²

But certainly there are fewer studies of the connections between Cádiz and people of African descent across Spanish America. Marixa Lasso's study of Cartagena, New Granada, proved the importance of the Cádiz debates for free black people's (*pardos*) participation in independence movements.¹³ Lasso's view, which stressed people of African descent's negative relationship with the Cádiz Constitution, has come to dominate the field as a result of the fact that historians assume that the Constitution was generally unfavorable to African diasporic populations. While this insight contributes to exploring the consequences of Spanish liberalism's racial underpinnings, the topic can be taken in different directions.

As a result of the pressure exercised by American deputies in the Cortes, Article 22 of the Cádiz Constitution ultimately did leave an avenue open for people of African ancestry to gain their citizenship in cases that merited it. Military duty was one way to prove that merit. Historians have already taken important steps investigating the impact of Article 22. For example, Melchor Campos's work on Yucatán recounts how free blacks actively pursued the opportunities opened by the Constitution. David Sartorius's chapter in this volume also shows that, in Cuba, the Constitution was invested with the aspirations of free blacks in particular. In other words, free blacks did not always interpret the charter as limiting but in some cases sought to use its language and expand its promise of citizenship to people of African descent.¹⁴

This suggests that, even after decisions were made regarding the limits to the *castas*' juridical status, the debates had unforeseen consequences that are visible only if we look into the varying interpretations across Spanish

America of the constitutional reform. A look into these interpretations entails acknowledging the specific political histories *and* political projects of the Indians and *castas* themselves.¹⁵

Another example illustrates the importance of investigating the impact of Cádiz in unlikely spaces and forms. In spite of the secrecy and discretion with which deputies expected to treat the topic of the abolition of the slave trade and slavery in the Hispanic world, the debate that took place within the Cádiz constitutional assembly between March and April 1811 dealing with these issues stirred up slaves and free people in Cuba and Puerto Rico.¹⁶ Thus, the process whereby news and rumors spread the information related to the Cortes meetings not only included different sectors of the population that might have been intentionally excluded from the Hispanic parliament, but it also triggered and enabled their political activities in a crucial moment of legal change.

The links between race and the history of the Cádiz Constitution are found within the Cortes debates and the written law as much as they are revealed in contrasting experiences across Spanish America during the Cádiz years. In order to understand each of these particular experiences we must analyze how the local and the imperial produced specific interpretations of the political process underway. Race was not simply a product of the structural divisions of Spanish American societies, nor did race only materialize in the Creoles' and *peninsulares*' active discrimination against *castas* in their deliberations and the legal framework they produced. In a political reading of "race" as identification, it is possible to view people of indigenous or African descent as active participants in the making of racial categories, as well as legal categories.¹⁷ From that perspective, the constitutional process played out among these social groups by providing a discursive background against which political action gained traction and acquired a dimension of possibility.

Cádiz and Politics in Popayán, 1810–1814

During the wars of independence, the province of Popayán was a political frontier between the insurgent project that emerged in the central and Caribbean cities in the viceroyalty of New Granada and the southern-Pacific royalist block controlled by the viceroy of Peru, Fernando de Abascal. As Natalia Sobrevilla Perea explains in her chapter in this volume, in spite of Abascal's reservations regarding the liberal Constitution, the need to sustain the monarchical government in the region led the viceroy to support the rule of the Cortes. In the Andean region spanning from Popayán to Charcas, military expediency was central to all political reasoning after 1808. In other words,

both for colonial officials and Spanish vassals, military opportunities became crucial to the process of decision making, and political dynamics shifted according to this volatile new variable.

To think about how race in Popayán intersected with the political, military, and legal processes that characterized the monarchical crisis, we must take into account the social particularities of this region. Popayán elites had made their fortunes and established their political power by consolidating a self-sustaining economy based on gold extraction (in the Pacific lowlands) and agricultural production for local consumption (in the eastern valleys and highlands). Slavery was the core of this economic system, and by the eighteenth century 17 percent of the population in the province were enslaved, a greater part locally born. Yet a higher percentage (23.5 percent) of the population of Popayán were Indians. And the majority of these lived in the highlands of Pasto, where the Spanish colonial project had consolidated along the lines of the Toledan reforms put into practice in the Andes in the sixteenth century. Indian communities descended from three ethnic groups—Abad, Pasto, and Quillacinga—survived the conquest and formed the core of the highlands society. Another significant and growing part of the population in Popayán was classified as *Libres de todos los colores* (“Free of all colors”), a group that encompassed mestizos and free black people. In the late eighteenth century, they were 36 percent of the population.¹⁸

The relevance of these census categories goes beyond numbers. In 1809, when war first broke out between Popayán and Quito, Popayán governor Miguel Tacón set the tone for an absolutist reaction against Quito’s attempt to establish an autonomist junta. The governor made gestures to attract Indians, slaves, and free blacks in the province, and in each case he put forth offers that suited the interests of these groups. The character of Tacón’s proposals suggests the significance of legal categories for the political positioning of Indians, slaves, and free blacks in the conflict. While for Indian communities negotiations revolved around the issue of tribute, for slaves it was the promise of freedom as a reward that emerged as an unprecedented consideration for attracting enslaved people to the royalist cause. For free black people, it was the possibility of forming military units, and the benefits derived from that participation in the royal army, that became central to the shifts in their relationship to the government.

This series of events and negotiations set the stage for the growth of a royalist movement in Popayán that guaranteed the permanence of Tacón at the head of the provincial government until 1812, and secured royal power for more than a decade in the region. Aside from making alliances with the Indians, slaves, and free blacks in the province, Tacón reached out to Viceroy Abas-

cal in Peru. This strategic move was convenient to Abascal, who sought to expand his power in the Pacific, and to Tacón it guaranteed a source of financial and military support. Once Popayán was integrated with the Pacific royalist block that had a center in Lima, post-1810 liberal reforms were administered from Quito. Under Abascal's command, Quiteño president Toribio Montes was in charge of instituting the Cádiz Constitution in Popayán. Although he was a liberal, Montes did not entirely endorse the legal reform and, much like it happened in other places, the immediate circumstances mediated the implementation of liberal decrees across Popayán.¹⁹

It is important to keep in mind that, before the Cádiz Constitution arrived in the Andean/Pacific region, the city of Santa Fe, north of Popayán in New Granada, was pioneering constitution-writing, with the Cundinamarca Constitution of 1811 and a few others that followed in cities across the viceroyalty.²⁰ The constitutional experiments from Santa Fe to Cartagena are instances of Hispanic constitutionalism, and at the same time that the Cádiz Cortes influenced autonomist movements in the Americas, these too were setting the pace for the practice of lawmaking across the Atlantic. In insurgent New Granada, as in Cádiz, constitution making was an innovation, and in both cases legislating was also a means to "constitute" the sovereign subject. In a similar way to the Cádiz liberal approach to Indian citizenship, in New Granada the new laws included Indians into the category of citizens.²¹ Putting the Cádiz Constitution into perspective along with the experiments in New Granadan cities suggests that local variables shaped the common terms of legislation.²²

The Cádiz Constitution was published in March 1812, at a time when the capital city of Popayán was occupied by the insurgents from the northern city of Cali. The document took some time to arrive in the Panama Audiencia in August, from where it was shipped to Quito. Montes sent copies of the Constitution to Pasto in May 1813, and around July the Constitution was sworn in there.²³ The Constitution reached the Pacific mining towns earlier, being promulgated in Barbacoas in January and Iscuandé in March 1813. The life of the liberal Constitution in this area was brief, and we can take into account this time lapse (between the Constitution's proclamation and its arrival to the Pacific coast and Andean highlands of Popayán) to weigh its impact in the region. Moreover, we have evidence of the oath of allegiance ceremonies, but we still know little about the application of the norms that the Cádiz Constitution prescribed—for this reason it is not possible to argue that the charter produced radical shifts at the municipal level in the territories under royalist control.²⁴

However, the relevance of the Constitution does not have to be limited

to its institutionalization. One can focus on other aspects of the history in the region that point to the fact that the royalist regions between Pasto and the Pacific lowlands were places where the rule of the Cortes affected political parameters and dynamics during these years and beyond. Going past the formal aspects of the legal reform helps to identify how the Constitution actually intersected with the local politics that preceded the arrival of the charter, and reveals instances in which the law was actively appropriated by indigenous people and blacks.

Intracommunity Politics and Representation

The role of *caciques* was one of the major issues defining politics among the Indian communities in Pasto. As in many places across Spanish America, these authorities were at the core of colonial tensions linked to fiscal duties and representation of indigenous people vis-à-vis colonial officials.²⁵ This latter aspect was crucial because it meant that *caciques* were the voice of communities as collectivities, which was possible based on the legal provision that classified Indians as “miserables” in need of legal representation.²⁶ Alongside *caciques*, the *protector de naturales* was a legal advocate in charge of mediating between Indians, the Crown, and others.

The war, in conjunction with legal innovations during the years 1809–1814, was a factor that determined clear shifts in community politics. During the crisis of the monarchy after 1808, the *protector* played a crucial role in guaranteeing the loyalty of Pasto Indian communities to the king and the royalist cause. But the *protector's* support of Indians' interests to lower tribute payment in exchange for their military service generated conflicts as well as changes in the relations of Indians to their *caciques*. In this context, royalism was largely defined through the particular interests of *caciques*, on one hand, and the Indian commoners that mobilized militarily, on the other. In Pasto, the liberal thrust to alter the status of Indians combined with the prerogatives they acquired from participating in the war. But what allowed Indian commoners to combat their subordination was their alliance with the *protector de naturales*. The interests of commoners and *caciques* drifted apart as they found support in the liberal juncture to pursue improvements for their social position.

This aspect of community politics before and during Cádiz rule—that is, the legal mediation by *protectores*—has received some attention.²⁷ It is clear that the post of *protector* was always highly politicized, from the sixteenth century through the nineteenth century when the independence wars began. This was the case because the law was a political arena in the Spanish Empire.

But in the context of the independence wars, the arrival of liberal legislation from the government in Cádiz added to the unprecedented negotiations of indigenous people with Popayán's governor and the *cabildo* (municipal council) in Pasto to guarantee a reduction in the tribute payment, transforming the terms of politics in relation to indigenous communities. Thus, during the war, a series of conflicts took shape in which *caciques* viewed the *protector* as a dangerous figure in the government.

Sartorius's chapter in this volume recounts the case of the *protector* of two Indian towns in Cuba whose ambiguous role consisted of simultaneously representing Indians' interests in embracing their new legal status as citizens and also considering the possibility that reforms would undermine their legal protections—including having access to a *protector*. A different example of tensions during this period in which the institution of *protector* was central is the case of Sonora, studied by José Refugio de la Torre Curiel. The Opata Indians of Sonora were among the groups that, by the eighteenth century, had been incorporated into Hispanic society in northern Mexico. In Sonora, as de la Torre Curiel explains, "Indians knew how to take advantage of the *protectoría* for their benefit." This led to accusations of complicity between the *protector* and the Opatas. One claim suggested that the Indians "had lost their loyalty to the Crown because they 'did not recognize any other authority than their *protector* Don Juan de Gándara.'"²⁸ In Pasto, as we have seen, the tensions between absolutist, liberal, and military rule also provoked a crisis in the *protectoría* that lasted until 1817.²⁹

As the crucial position of legal mediator, the post of *protector* was vulnerable to change as a result of the monarchical crisis and liberal reform. The similarity between the conflict surrounding the *protector* in Sonora and in Pasto suggests that outside of New Granada, too, the instability of the monarchy propelled conflicts with *protectores* and added a new layer to the escalating tensions. In Sonora, as in Pasto, the rhetoric deployed against the *protectores de naturales* was explicit about the risk of insurrection among Indians as a result of their relationship with the current *protector*. In Pasto, changes in imperial discourse (from liberalism back to absolutism in 1814) triggered discord, and the conflicts played out in parallel fashion to the reforms. Additionally, legal frameworks ultimately became an instrument for the different factions within the communities to defend their interests.

Focusing on the role of *protector* during this period raises the important question posed by Sartorius: whether or not indigenous people welcomed the changes promised by the liberal Constitution. It would be impossible to generalize and, indeed, the examples we have in places like Quito and Peru show contradictory positions.³⁰ Here, too, Pasto and Cuba illustrate the dif-

ferent possibilities in the interpretation of the benefits of liberal citizenship alongside “Indianness” at the turn of the nineteenth century. It is significant that, among both the Indians of Pasto and those of Cuba, liberalism was simultaneously attractive and considered to be a threat. But what stands out is that indigenous people in these two regions sought to negotiate their position in the context of legal change—not enrolling in the insurgency to reject the new terms of imperial government. Both of these points remind us about the need to be cautious and not assume the anticolonial inclination of indigenous people.

In other words, the adjustments of the liberal measures in contexts in which the Constitution was added to the mix of local politics suggest that, during this period, indigenous people incorporated imperial citizenship into their repertoire. This is a point of departure from the interpretation of the Cádiz Constitution as an entirely “anticolonial” project.³¹ Instead, I argue that the constitutional reform in the Spanish Empire during this period illustrates how and why colonialism did not end completely with liberalism.³²

Military Service, Freedom, and Citizenship

As Rafael Marquese shows in this volume, the Cádiz Constitution was interpreted as an antislavery document in Cuba in spite of the fact that it did not include any provisions in favor of abolishing the Atlantic slave trade. This is a fine example of the unintended consequences of the Cádiz Constitution and of why it is important to interrogate the contexts in which the Constitution was received to understand the full, and uneven, political history of the liberal legislation. This approach is valuable to inquire about the possibilities that in certain contexts people of African descent, both enslaved and free, might have understood the Constitution as a constructive element in their search to expand their rights during the monarchical crisis. The sources to argue this for Popayán are scarce, but I will discuss some elements that contribute to thinking that the Constitution could have factored (at least partially) in people of African descent’s enthusiastic support of the royalists in this region based on their own interpretation of the Constitution and the liberal rule of the Cortes.

When the Quito municipal council rebelled in 1809, Governor Tacón was worried that the Quiteños would attempt to take over the Pacific mining region to control gold production. He was certain that the Quiteño rebels were planning to stir up a revolt among the enslaved who labored in the mines. The governor also supposed that, if he did not approach the enslaved and try to win them over to his side, it was very probable that they would rebel or join the Quiteños in exchange for promises. What is especially noteworthy is that

the governor used exactly that argument about the potential threat that the enslaved represented to ask for the military support of the viceroys in Santa Fe and Lima.³³

With the consolidation of a Pacific royalist alliance between Popayán and Peru, the enslaved in the Pacific lowlands became especially important, because they lived in a strategic area that royalists needed to secure in order to receive military support from Lima (or Panama). Moreover, the slaves in the mining region themselves gained an unprecedented importance in military terms because their active service for the Crown—one of the crucial conditions to maintain the area free of insurgents. For the same reason, it was necessary to ensure the slaves' loyalty. Thus, after 1809, Tacón unofficially offered freedom to those slaves that performed a heroic action in defense of the king's cause.³⁴

Elite confrontations in Popayán gave way to exceptional opportunities for the enslaved in the region. And the way in which the elites divided marked the popular reaction and slaves' alignment in the confrontation. For example, the mine owners in the rivers Micay and Iscuandé were implicated in the insurgency centered in Cali, but the enslaved in their mines decided that, on the contrary, they were in favor of the monarchy. The slaves explicitly linked their support of the Crown in the volatile context of the rise of an insurgency against the monarchy as an argument that granted them the right to be "vassals of the king and enjoy the freedom other vassals had."³⁵ The terms in which the enslaved across the Pacific lowlands justified their rebellion against their masters inaugurated a radical situation in which Tacón's government authorized the slave rebellions in exchange for the slaves' loyalty to the Crown. This was, indeed, the beginning of an alliance between the government and communities of slaves and free blacks in the Pacific region of New Granada that lasted for almost a decade, between 1809 and 1819.³⁶

A similar dynamic took place in the Patía River Valley north of Pasto, where the majority of the population was of African descent. Tacón sought the support of free blacks in Patía, who formed a militia that was fundamental for the defense of the area from the Santa Fe and Cali insurgent incursions that tried to take control of the province. After 1809, in Patía, the royalist militia counted on black militia captains who supported Tacón. As a result, the Patiano men gained individual preeminence in the royalist militia with the concomitant collective goal of protecting their territory from a northern invasion.

During the eighteenth century, when the Crown created certain openings for free blacks to ascend the social ladder through membership in the militias, the Popayán elites hindered the process.³⁷ Creole elites clung to racial privilege in spite of—or perhaps because of—the growth of a free black popula-

tion in the province. However, the monarchical crisis gave great latitude for action to a royal official like Miguel Tacón, who was open to extending new privileges to free and enslaved blacks in exchange for military service. Tacón's bold move to incorporate blacks in the army reflected his perception that it was a decision consistent with the Crown's integrationist policy of the previous century. Even though the governor acted with caution when mobilizing the slaves, his alliance with free blacks from Patía undoubtedly revealed the royalists' pragmatic approach to incorporating blacks into military ranks.³⁸

Though at this point we have not located written documentation of the ways in which the royalism of the free and enslaved blacks in Popayán might have related to the Cádiz Constitution, the lack of sources is not an impediment to reflect on this possibility. Yet, as just described, it is crucial to understand that the incorporation into the military of free and enslaved blacks during the war actually preceded the Cádiz debates. Thus, for the slaves and free blacks in southwest New Granada, military dynamics had a deeper—and more practical—impact than the Cádiz Constitution did, insofar as opportunities for social mobilization were concerned. Therefore, in Popayán, the process of social and political negotiation for slaves and free blacks began on a military rather than legal plane.

Yet it is very likely that, once the Cádiz charter was publicized, the free black men of Patía interpreted Article 22 in their favor and expected to receive citizenship as a reward for their military deeds in support for the king. Although it is unclear whether the Cádiz Constitution reached Patía after 1813, even if the liberal charter was not institutionalized in that area, it is very likely that information about the Constitution and its implications were circulating among the Patianos who were part of the royalist army. Evidence for this comes from the last quarter of 1813, when a battalion of *pardos* (free blacks) from Lima arrived in the region to support the defense of Popayán. And through their combined efforts, the royalist troops were able to take back the city from the Cali insurgents, increasing the fame and power of the black Patiano militia. It seems likely that men in the *pardo* contingent from Lima and those in the Patía royalist militia discussed the implications of the liberal Constitution for themselves.³⁹ As we saw above, the way the Cortes dealt with the issue of citizenship for the *castas* impacted local politics across Spanish America. If we consider the examples of Cuba, Panama, and Yucatán, in which men in *pardo* militias sought to expand their rights by appealing to the Constitution, it seems possible that the liberal context incited free black men from Patía to enroll in the king's armies.

Similarly, although the sources available do not explicitly indicate how the slaves in the gold mines understood the Cádiz Constitution, it is useful to re-

call earlier examples of the ways in which mining communities in Barbacoas used the 1789 *Instrucción sobre la educación, trato y ocupaciones de los esclavos*, which was not officially instituted but had clear resonance among the slaves in the Pacific lowlands. In the mining region of Popayán province, during the late eighteenth century, slaves had detailed knowledge about the new legislation, in spite of the fact that the Crown decided to cancel its implementation due to slaveholders' complaints. Moreover, in the late eighteenth century, slaves in Barbacoas not only knew about the legislation and its potential benefits to them; they aligned their collective organization and legal actions with the content of the law.⁴⁰

This suggests that—as seen in other cases across the Atlantic world—discussion of laws and legal reform had major impacts on the political action of slaves and free blacks. Parallel consequences may have been part of the reception of the Cádiz Constitution in a region where royalism offered more promising opportunities than the insurgency.

Indeed, in the case of Cartagena, elites questioned the racial underpinnings of the debate about representation in Cádiz and the exclusion of people of African descent and allied with the free blacks in their critique of Spanish liberalism. That alliance catalyzed divisions between Americans and Spaniards, which in turn triggered an independence movement that was supported by a substantial number of free blacks. According to Lasso, after 1810 the independence project in Cartagena was infused with ideas of racial equality.⁴¹ Of course, it is important to keep in mind that this was not always the case. As an example, in Venezuela, east of Caracas, enslaved and free people of color in the haciendas and towns around Barlovento mobilized as early as 1811 to challenge the first junta in Caracas, which did not espouse ideas of racial equality.⁴² Similarly in Popayán, where slavery was still very significant in the nineteenth century, the prospect of racial equality—either as a legal project or a nationalist trope—faced big hurdles. Unlike slave and plantation owners in the Spanish Caribbean, slaveholders in Popayán pursued self-government in spite of their continued social and economic dependence on slavery.

Conclusion

Reclaiming the history of America as constitutive of the rise of Hispanic liberalism during the Napoleonic invasion, historians have brought up social aspects of the Cádiz debates that revealed the importance of race for the politics of the 1812 Constitution. Yet the gesture remains formal if it simply implies recovering the discussions about America in the Cádiz Cortes while leaving

out the local regional histories of people across Spanish America who were not merely objects of the legislation but, in practice, also subjects.

Race is clearly a substantial issue to be addressed and explored in relation to the Cádiz Constitution. At one level, the charter reflected, and predicted, the issues at the core of imperial/national Hispanic dynamics in the 1810s. In the parliamentary debates as much as the written law, *gaditano* liberalism prescribed changes in the legal definition of citizens (and their rights) with deep effects over racial categories. At another equally important level, the charter and the debates that preceded it were part of the legal, intellectual, and political Atlantic framework that not only evolved in relation to the imperial transformations stemming from the peninsula, but which was grounded in local political histories and priorities. In the wide range of local histories, we find a crucial element to ponder the ways in which American racial dynamics intersected with the Cádiz legislation.

Although scholars have interpreted expanding citizenship to indigenous people as an anticolonial gesture, the case of Popayán briefly discussed here gives clues about the importance of situating the Cádiz experiment and its reception among indigenous people within, instead of outside, colonial history. This is relevant not to discredit the charter, but as a means of exploring the crucial mutation of the monarchy into a constitutional state and an imperial nation. Moreover, it is an analysis that takes into account the indigenous people's interests and particular interpretations or appropriations of the liberal discourse.

Through the lens of the case of Popayán, a royalist stronghold where the Constitution was relevant to politics beyond 1810, we have seen that legal change was always related to the military context that characterized the monarchical crisis. While in this juncture race and racial categories were defined and redefined by the law, they were also produced by indigenous people, slaves, and free blacks who actively engaged the process of change from their position as royalists.

Taking into account the contrasts between the anticolonial reaction of free people in Cartagena and those in Popayán who were vital defenders of the Spanish Crown during the independence wars, it is clear that the history of the Cádiz Constitution is extremely complex and varied. It is not possible to generalize regarding its impact, which always was a product of local circumstances and went beyond the charter's institutionalization and foreseen consequences. Indeed, only additional research into this important theme will provide a more complete picture of the ways in which the Constitution was implemented and understood in Spanish America.

Notes

1. See, for example, Roberto Breña, *El primer liberalismo español y los procesos de emancipación de América, 1808–1824* (Mexico City: El Colegio de México, 2006); François-Xavier Guerra, *Modernidad e independencias. Ensayos sobre las revoluciones hispánicas* (Mexico City: Fondo de Cultura Económica, 1993); Manuel Chust, *La cuestión nacional americana en las Cortes de Cádiz (1810–1814)* (Valencia: Instituto de Historia Social, 1999); Jaime E. Rodríguez O., “Las primeras elecciones constitucionales en el Reino de Quito, 1809–1814 y 1821–1822,” *Revista Procesos* 14 (1999): 13–52.

2. See Breña, *El primer liberalismo*, 498.

3. Historians such as Virginia Guedea, “Las primeras elecciones populares en la ciudad de México, 1812–1812,” *Mexican Studies/Estudios Mexicanos* 7, no. 1 (1991): 1–28; and Nettie Lee Benson, “The Contested Mexican Election of 1812,” *Hispanic American Historical Review* 26, no. 3 (1946): 336–50, have studied the history of elections under the Cádiz Constitution providing a prehistory of modern elections in Latin America.

4. On racialization and history in Latin America, see Laura Gotkowitz, “Racisms of the Present and the Past in Latin America,” in *Histories of Race and Racism: The Andes and Mesoamerica from Colonial Times to the Present*, ed. Gotkowitz (Durham: Duke University Press, 2011), 11.

5. Federico Suárez Verdeguer, *Conservadores, innovadores y renovadores en las post-rimerías del antiguo régimen* (Pamplona: Publicaciones del estudio general de Navarra, 1955); Suárez Verdeguer, *El proceso de convocatoria a Cortes (1808–1810)* (Pamplona: Ediciones Universidad de Navarra, 1982); Joaquín Varela Suanzes, *La teoría del estado en los orígenes del constitucionalismo hispánico (Las Cortes de Cádiz)* (Madrid: Centro de Estudios Constitucionales, 1983).

6. Marie Laure Rieu-Millan, *Los diputados americanos en las Cortes de Cádiz* (Madrid: Consejo Superior de Investigaciones Científicas, 1990), 146. See also María Teresa Berruazo, *La participación americana en las Cortes de Cádiz, 1810–1814* (Madrid: Centro de Estudios Constitucionales, 1986).

7. Manuel Chust, *América en las Cortes de Cádiz* (Madrid: Fundación Mapfre-Doce Calles, 2010); and Chust, “De esclavos, encomenderos y mitayos. El anticolonialismo en las Cortes de Cádiz,” *Mexican Studies/Estudios Mexicanos* 11, no. 2 (1995): 179–202.

8. José María Portillo Valdés, *Crisis atlántica: Autonomía e independencia en la crisis de la monarquía hispana* (Madrid: Marcial Pons, 2006).

9. Scarlett O’Phelan, “Dionisio Inca Yupanqui y Mateo Pumacahua: Dos indios nobles frente a las Cortes de Cádiz (1808–1814),” in *Las independencias desde la perspectiva de los actores sociales*, ed. Juan Luis Orrego Penagos, Cristóbal Aljovín de

Losada, and José Ignacio López Soria (Lima: Pontificia Universidad Católica del Perú, 2009), 93–104.

10. There is an extensive literature on this topic. A recent synthesis can be found in Sherwin Bryant, Rachel O'Toole, and Ben Vinson, *Africans to Spanish America: Expanding the Diaspora* (Urbana: University of Illinois Press, 2012), 12.

11. Christopher Schmidt-Nowara, *Slavery, Freedom, and Abolition in Latin America and the Atlantic World* (Albuquerque: University of New Mexico Press, 2011), 111.

12. Sonia Alda, *La participación indígena en la construcción de la república de Guatemala, S XIX* (Madrid: Universidad Autónoma de México, 2002); Michael Ducey, *A Nation of Villages: Riot and Rebellion in the Mexican Huasteca, 1750–1850* (Tucson: University of Arizona Press, 2004); Peter F. Guardino, *The Time of Liberty: Popular Political Culture in Oaxaca, 1750–1850* (Durham: Duke University Press, 2005); Claudia Guarisco, *Los indios del valle de México y la construcción de una nueva sociabilidad política, 1770–1835* (Zinacantepec: El Colegio Mexiquense, 2003); Mark Turner, *From Two Republics to One Divided: Contradictions of Postcolonial Nation-making in Andean Peru* (Durham: Duke University Press, 1997).

13. Marixa Lasso, *Myths of Harmony: Race and Republicanism during the Age of Revolution, Colombia 1795–1831* (Pittsburgh: University of Pittsburgh Press, 2007), 37.

14. Antonio Fernández García, ed., *La Constitución de Cádiz (1812) y Discurso Preliminar a la Constitución* (Madrid: Editorial Castalia, 2002), 97; Melchor Campos García, *Castas, feligresía y ciudadanía en Yucatán* (Mérida: Universidad Autónoma de Yucatán, 2005); Jane Landers, *Atlantic Creoles in the Age of Revolutions* (Cambridge: Harvard University Press, 2010), 159.

15. James King, “The Colored Castes and American Representation in the Cortes of Cadiz,” *Hispanic American Historical Review* 33, no. 1 (February 1953): 526–37. This is a crucial point that some historians of the Cádiz debates have failed to appreciate fully. For example, both Chust and Breña critique the authentic intentions of American deputies who favored extending citizenship to people of castes (with African ancestry) in the 1811 debates. They suggest that we should think twice about considering these as truly progressive reforms. For Breña, the “tactical” nature of the deputies’ position in the debates in Cádiz is what mostly defines the purpose and reach of the laws that resulted from these. However, this approach bounds the Constitution’s history to the elitist concerns of its crafters. What I will argue here is that we need to move beyond looking at the Constitution’s production to include the aspect of its interpretation on the ground by all social subjects in the Hispanic Atlantic. This, moreover, requires that we also pay close attention to the political history of subaltern subjects in the Spanish American context to trace meaningful connections between their interpretation of the Cádiz Constitution and their political action between 1810 and 1814.

16. Rieu-Millan, *Los diputados americanos*, 152–73; Schmidt-Nowara, *Slavery*,

Freedom, and Abolition in Latin America and the Atlantic World, 91–93; Landers, *Atlantic Creoles*, 157.

17. Sinclair Thomson, “Was There Race in Colonial Latin America? Identifying Selves and Others in the Insurgent Andes,” in *Histories of Race and Racism: The Andes and Mesoamerica from Colonial Times to the Present*, ed. Laura Gotkowitz (Durham: Duke University Press, 2011), 76.

18. This percentage was high compared to the overall enslaved population of New Granada, amounting to only 5.5 percent. Hermes Tovar, *Convocatoria al poder del número. Censos y estadísticas de la Nueva Granada, 1750–1850* (Bogota: Archivo General de la Nación, 1994), 69–73, 319.

19. Federica Morelli, *Territorio o nación. Reforma y disolución del espacio imperial en Ecuador, 1765–1830* (Madrid: Centro de Estudios Políticos y Constitucionales, 2005).

20. Carlos Restrepo Piedrahita, *Primeras constituciones de Colombia y Venezuela, 1811–1830* (Bogota: Universidad Externado de Colombia, 1993).

21. María Teresa Calderón and Clément Thibaud, *La magestad de los pueblos en la Nueva Granada y Venezuela, 1780–1832* (Bogota: Taurus, Instituto Francés de Estudios Andinos, Universidad Externado de Colombia, 2010); Guillermo Sosa, *Representación e independencia, 1810–1816* (Bogota: Instituto Colombiano de Antropología e Historia, 2006).

22. Oscar Almario, “Del nacionalismo americano en las Cortes de Cádiz al independentismo y nacionalismo de estado en la Nueva Granada, 1808–1821,” in *Los colores de las independencias iberoamericanas. Liberalismo, etnia y raza*, ed. Manuel Chust and Ivana Frasset (Madrid: Consejo Superior de Investigaciones Científicas, 2009), 197–219.

23. Jairo Gutiérrez, “La Constitución de Cádiz en la Provincia de Pasto, Nueva Granada, 1812–1822,” *Revista de Indias* 68, no. 242 (2008): 207–24.

24. Jairo Gutiérrez and Armando Martínez, eds., *La visión del Nuevo Reino de Granada en las Cortes de Cádiz (1810–1813)* (Bogota: Academia Colombiana de Historia: Universidad Industrial de Santander, 2008).

25. David T. Garrett, *Shadows of Empire: The Indian Nobility of Cusco, 1750–1825* (New York: Cambridge University Press, 2005); Karen Spalding, *Huarochiri: An Andean Society under Inca and Spanish Rule* (Stanford: Stanford University Press, 1988); Yanna Yannakakis, *The Art of Being In-between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca* (Durham: Duke University Press, 2008).

26. Marcela Echeverri, “Conflicto y hegemonía en el suroccidente de la Nueva Granada, 1780–1800,” *Fronteras de la Historia* 11 (2006): 355–87.

27. Woodrow W. Borah, *Justice by Insurance: The General Indian Court of Colonial Mexico and the Legal Aides of the Half Real* (Berkeley: University of California Press, 1983); Charles Cutter, *The Protector de Indios in Colonial New Mexico, 1659–1821*

(Albuquerque: University of New Mexico Press, 1986); Diana Bonnett, *El protector de naturales en la Audiencia de Quito, siglos XVII y XVIII* (Ecuador: FLACSO, 1992); José de la Puente B., “Notas sobre la Audiencia de Lima y la ‘protección de los naturales’ (siglo XVII)” in *Passeurs, mediadores culturales y agentes de la primera globalización en el Mundo Ibérico, siglos XVI–XIX*, ed. Scarlett O’Phelan Godoy and Carmen Salazar-Soler (Lima: PUCP-Instituto Riva-Agüero-Instituto Francés de Estudios Andinos, 2005), 221–48; Caroline Cunill, “Tomás López Medel y sus instrucciones para defensores de indios: Una propuesta innovadora,” *Anuario de Estudios Americanos* 69, no. 1 (2012): 539–63.

28. José Refugio de la Torre Curiel, “Un mecenazgo fronterizo: El protector de indios Juan De Gándara y los ópatas de Opodepe (Sonora) a principios del siglo XIX,” *Revista de Indias* 70, no. 248 (2010): 185–212, esp. 198–99.

29. Marcela Echeverri, “Popular Royalists, Empire, and Politics in Southwestern New Granada, 1809–1819,” *Hispanic American Historical Review* 91, no. 2 (2011): 237–69.

30. Christine Hunefeldt, “Los indios y la Constitución de 1812,” *Allpanchis* 11–12 (1978): 33–57; Nuria Sala i Vila, “El levantamiento de los pueblos de Aymaraes en 1818,” *Boletín Americanista* no. 39–40 (1990): 224; Rodríguez, “Las primeras elecciones constitucionales,” 13–52.

31. According to Manuel Chust the *mita*, *encomienda*, *reparto*, and slavery were “anticolonial” themes in Cádiz. See Chust, “De esclavos, encomenderos y mitayos.”

32. This theme is discussed in relation to the continuation of slavery during the nineteenth century in Márcia Berbel, Rafael Marquese, and Tâmis Parron, *Escravidão e Política: Brasil e Cuba, 1790–1850* (São Paulo: Editora Hucitec, 2010); Schmidt-Nowara, *Slavery, Freedom, and Abolition*, chapter 4.

33. Fernando Díaz Venteo, *Las Campañas Militares del Virrey Abascal* (Seville: Escuela de Estudios Hispano-Americanos de Sevilla, 1948), 86; “Oficio del gobernador, don Miguel Tacón, al virrey del Perú,” *Documentos importantes de Nueva Granada, Colombia y Venezuela* (Apéndice de la Historia de Colombia, vol. 5), ed. José Manuel Restrepo (Bogotá: Imprenta Nacional, 1969), 24–26, 32–34.

34. Marcela Echeverri, “Los derechos de indios y esclavos realistas y la transformación política en Popayán, Nueva Granada (1808–1820),” *Revista de Indias* 69, no. 246 (2009): 59.

35. Archivo General de Indias, Quito 386.

36. Echeverri, “Popular Royalists, Empire, and Politics,” 244–55.

37. Allan Kuethe, “More on ‘The Culmination of Bourbon Reforms’: A Perspective from New Granada,” *Hispanic American Historical Review* 58, no. 3 (August 1978): 478.

38. Echeverri, “Popular Royalists, Empire, and Politics”; and Marcela Echeverri, “Popular Royalists and Revolution in Colombia: Nationalism and Empire, 1780–1820” (PhD diss., New York University, 2008).

39. “Diario de las noticias y hechos ocurridos que nos dieron los señores limeños, desde el 1 de octubre de 1813 hasta el 15 de enero de 1814,” *Boletín Histórico del Valle* 23–24 (1934), 450.

40. Marcela Echeverri, “‘Enraged to the Limit of Despair’: Infanticide and Slave Judicial Strategies in Barbacoas, 1788–98,” *Slavery & Abolition* 30, no. 3 (2009): 403–26.

41. Lasso, *Myths of Harmony*.

42. Peter Blanchard, *Under the Flags of Freedom: Slave Soldiers and the Wars of Independence in Spanish South America* (Pittsburgh: University of Pittsburgh Press, 2008), 23.