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Slavery and Social Life: Attempts to Reduce Free People to Slavery in the Sertão Mineiro, Brazil, 1850–1871

JUDY BIEBER FREITAS

In 1859 the district attorney of Montes Claros, in a long dispatch to the provincial chief of police, enumerating the many evils prevailing in his jurisdiction, included 'craven traffickers who abduct little free children of colour whom they trick and seduce with fruits and presents, to sell as if they were slaves, trading them for livestock or mere trinkets'.¹ This complaint was not an isolated incident; it reflected a larger trade in free people of colour which took place in the *sertão* of northern Minas Gerais after the closing of the transatlantic slave trade in 1851 and before the passage of the law of the free womb in 1871. The internal trade in free persons ceased in the early 1870s, when mandatory slave matriculation made illicit transactions more detectable.

Local reactions to this illicit commerce were varied. Some officials entered into the trade enthusiastically, taking advantage of their virtual invulnerability within the municipal justice system. Others went to great lengths to protect the rights of victims, often enlisting the aid of police officers, judges, and priests from distant municipalities. When cases of illegal enslavement reached the municipal courts, or the attention of the provincial president, local administrators fought over the meaning of slavery and freedom and the rights of captives and free people of colour. Falsely enslaved individuals perceived this lack of elite consensus and took advantage of it, pitting municipal officials against each other in order to regain their freedom.

Many municipal bureaucrats responded sympathetically to the plight of men, women and children who had been unjustly enslaved. Over the course of the 1850s and 1860s justices of the peace and police officers sent

¹ Luiz Gomes Ribeiro, district attorney of the *comarca* of Rio do São Francisco, to Manoel José Gomes Rebello Horta, provincial police chief, 1 June 1859, Arquivo Públíco Mineiro [hereafter cited as APM] Belo Horizonte, Minas Gerais, *seção da província* [hereafter SP], *codice*, 762.

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a steady stream of accusations to the provincial police chief. These fall into two general categories: simple abduction, and manumission disputes. The first, which is the primary focus of this article, only arose under specific circumstances, when supply was short, demand high and internal legal and fiscal barriers few. The number of cases reported, although quantitatively few, provides a glimpse into the legal and social attitudes concerning slavery, manumission and freedom held by *mineiros* of the interior. Regional officials were aware of new legal definitions of slavery which were being formulated in Rio de Janeiro, the juridical centre of Brazil. Geographical isolation did not translate into intellectual torpidity.

These documents also enable expansion of the historiographical debate concerning the nature of slavery and the internal slave trade in nineteenth-century Minas Gerais, a debate which has been drawn largely in economic and demographic terms.² The cases examined here show that the definition of slavery was far from static. Illegally enslaved free people occupied an ambiguous status. The burden of proof rested upon them to prove that they were legally free. In order to regain their freedom they not only used networks of friends, family and community, but also negotiated with civil servants, police chiefs and magistrates within the Brazilian Imperial bureaucracy. The non-white population, both free and slave, were aware of their legal and customary rights and employed mixed strategies to free themselves from illegal captivity.

The commerce in free people was conducted primarily north of the nineteenth parallel in the *comarcas* (judicial districts) of Rio São Francisco, Paracatú, and Rio Pardo. These three *comarcas* shared a similar history and a similar semi-arid environment, well adapted to livestock ranching. They had all been settled in the eighteenth century by Paulista *bandeirantes*, and had quickly become suppliers of cattle and other provisions for the gold mines. Paracatú had also enjoyed a gold boom in the mid-eighteenth century. By the nineteenth century the three *comarcas* formed a regional economy based on livestock ranching, subsistence agriculture, and craft production for local consumption. Surplus produce was sold in nearby markets and in the neighbouring provinces of Goiás and Bahia.³ In the 1830s Paracatú had the smallest percentage of slaves relative to the general population, but managed to retain this ratio over time. The Montes Claros-São Francisco area enjoyed parity with Paracatú in the 1830s, but would suffer a sharp drop in number of resident slaves by the mid 1850s.

² For an overview of this debate see the bibliographic essay by Douglas Cole Libby, *Historiografia e a Formação Social Escravista Mineira. Acervo: Revista do Arquivo Nacional*, vol. 3 (Jan.–June, 1988), pp. 7–20.

³ Bernardo Mata Machado, *História do Sertão Noroeste de Minas Gerais—1690–1930* (São Paulo, 1990), pp. 30–86.

Table 1. Percentage of slaves in the total population for the ten sub-regions of the province of Minas Gerais, 1831–1872

	1831–40	1854–7	1872
Metalúrgica-Mantiqueira	36.48	26.81	19.03
Mata	36.77	38.75	25.30
Sul	31.99	31.44	20.52
Oeste	27.35	26.30	17.02
Triângulo	34.66	25.94	16.27
Alto Paranaíba	30.84	20.77	16.54
<i>São Francisco-Montes Claros</i>	24.05	7.63	8.95
<i>Paracatu</i>	23.31	19.21	19.36
<i>Jequitinhonha-Mucuri-Doce [Rio Pardo]</i>	24.21	16.54	17.66
Total for Minas Gerais	31.30	24.95	18.16

Source: Libby, *Transformação e Trabalho*, p. 47. [Note: Libby does not provide real numbers. The *comarcas* discussed in this article have been italicised.]

The ten sub-regions of Minas Gerais all experienced sharp declines in the slave proportion of the population by 1872 (as is shown in Table 1).

Geographically isolated, the North remained sparsely populated. Its effective administration was sparser still. During the First Empire (1822–31) and Regency (1831–40) elected justices of the peace exercised fairly broad judicial and policing powers. The justices of the peace were complemented by district magistrates (*juízes de direito*), municipal judges (*juízes municipais*) and county prosecutors (*promotores públicos*) created under the criminal code of 1832. The *juiz de direito* was the most powerful official, supervising criminal and civil trials of an entire *comarca*, consisting of several municipalities. He was appointed by the Ministry of Justice and, by definition, held a law degree. Municipal judges and county prosecutors were also selected by appointment based on local recommendations. Prior to the 1860s they were typically educated laymen. Their jurisdiction was limited to the municipal level. Municipal judges also dealt with civil and criminal cases, and served as substitutes for the *juiz de direito* when absent. County prosecutors reviewed cases and decided which should be brought to trial.

The justices of the peace lost many of their powers through a constitutional reform in 1841. They had shown themselves to be ineffective and easily co-opted by local interests. The Brazilian state showed increasing tendencies to centralisation after the tumultuous decade of the 1830s. The reform created police delegates and subdelegates, centrally appointed civil authorities who assumed many of the powers formerly exercised by the justices of the peace. The centrally appointed police delegates acquired authorisation to arrest, imprison and press charges against criminal suspects. Elected councilmen, parish priests and

officers of the National Guard did not exercise formal juridical powers, but wielded considerable private influence and limited administrative prerogatives. Although municipal police officers and magistrates were formally under the control of the provincial government, they were sufficiently distant from central authority to exercise arbitrary powers with impunity. Isolation and the effective devolution of authority allowed a trade in free people to emerge.⁴

Slavery in nineteenth-century Minas Gerais was very much an understudied topic prior to the pioneering demographic work of Roberto B. Martins.⁵ Martins maintained that the *mineiro* slave population (which grew from 170,000 in 1819 to 380,000 by 1872) increased through province-wide importation rather than natural increase.⁶ He further claimed that it was not coffee revenues but the modest income generated by a diversified economy of subsistence agriculture and small industry that paid for large numbers of slaves. The traditional historiographical portrait of nineteenth-century *mineiro* economic decadence and the assumption that the depressed north and centre lost their slaves to the expanding coffee regions to the south were thus challenged.⁷ According to Martins, that slavery persisted in Minas Gerais was attributable to an abundance of unoccupied land and, consequently, a scarcity of reliable, salaried labour (the so-called Wakefield effect). The trade from Minas Gerais to the coffee regions in São Paulo and Rio de Janeiro was limited to a 'sleepy border trade'.⁸

Martins's research spurred a wave of revisionist historiography concerning the nature of the nineteenth-century economy of Minas Gerais. Robert W. Slenes rejected the Wakefield effect, highlighting the

⁴ I address the intricacies of municipal administration, politics, and social control in the interior of Minas Gerais during the Empire in my dissertation, 'Marginal Elites: Power, Politics, and Patronage in the Backlands of Northern Minas Gerais, Brazil, 1830–1889', unpubl. Ph.D. diss., The Johns Hopkins University, 1994.

⁵ Roberto B. Martins, 'Growing in Silence: The Slave Economy of Nineteenth Century Minas Gerais, Brazil', unpubl. Ph.D. diss., Vanderbilt University, 1980; see also Roberto B. Martins and Amilcar Martins Filho, 'Slavery in a Non-export Economy, Nineteenth Century Minas Gerais Revisited', *Hispanic American Historical Review*, vol. 63 (Aug. 1983) pp. 537–68 with responses by Robert W. Slenes, Warren Dean, Stanley Engerman and Eugene Genovese in 'Notes and Comments', *Hispanic American Historical Review*, vol. 63, no. 3 (Aug. 1983), pp. 569–90. Martins's response is in 'Slavery in a Non export Economy: A Reply', *Hispanic American Historical Review*, vol. 4 (Jan. 1984), pp. 135–46.

⁶ This pattern also emerges in Hebe Maria Mattos de Castro's study of the subsistence-oriented *município* of Capivari in Rio de Janeiro, *Ao Sul da História* (São Paulo, 1987). Stanley Engerman and Eugene Genovese have criticised Martins on his claim to *mineiro* uniqueness in 'Notes and Comments', *Hispanic American Historical Review*, vol. 63, no. 3 (Aug. 1983), pp. 569–90.

⁷ Caio Prado Junior, *História Econômica do Brasil*, 35th ed. (São Paulo, 1987), pp. 173–5.

⁸ Martins & Martins, 'Slavery in a Non-export Economy', p. 550.

extension of internal markets and the multiplier effects of coffee production to explain the sustenance of a large slave population. He admits that Minas Gerais did have the means to import large numbers of slaves, but argues that natural increase also played a prominent role.⁹ Douglas Cole Libby also criticises the Wakefield explanation – for being ahistorical and for failing to take into account the poor quality of unappropriated lands in Minas Gerais.¹⁰ Comparing census data from the 1830s and 1872, Libby sees a levelling of sex ratios (suggesting natural increase rather than imports).¹¹ The demographic historians Luna and Cano indicate natural increase in *mineiro* slave populations as early as the colonial period, following the shift from labour-intensive mining to less exploitative diversified agriculture.¹² Finally, Tarcísio Rodrigues Botelho's monograph on nineteenth-century slavery in Northern Minas Gerais also maintains that natural increase made possible the continuation of a slave economy in an economically non-dynamic region.¹³

Although some degree of consensus has now been reached concerning the causes of the growth of the slave population of Minas Gerais, the specifics of *mineiro* participation in the inter-provincial slave trade have yet to be determined. Table 1 shows that almost all regions in Minas Gerais experienced a drop in slave population with respect to the free population from 1831 to 1872. Martins's figures, however, show that the total provincial slave population increased in real numbers over this period. The Montes Claros–São Francisco area suffered the sharpest decline. Within Minas Gerais, the coffee-producing *zona da mata* enjoyed relative gains in slave population, but the origin of those slaves still remains obscure.¹⁴

Regional monographs offer only suggestive indications. As of now no definitive quantitative studies exist. Rómulo Andrade's research on the *zona da mata* shows that the majority of slaves imported from 1850 to 1880

⁹ Robert W. Slenes, 'Os Múltiplos de Porcos e Diamantes: a Economia Escrava de Minas Gerais no Século XIX', *Estudos Económicos*, vol. 18, no. 3 (Sept.–Dec. 1988), pp. 449–96. In his study of slave *matrículas* in Campinas, Slenes discovered larger numbers of women and children than were revealed in the official census of 1872. These data suggested a population enjoying natural increase. See 'O que Rui Barbosa não Queimou: Novas Fontes para o Estudo da Escravidão no Século XIX' *Estudos Económicos*, vol. 13, no. 1 (Jan.–April, 1983), p. 127.

¹⁰ A similar criticism was made by Warren Dean in 'Notes and Comments', pp. 582–3.

¹¹ Douglas Cole Libby, *Transformação e Trabalho em uma Economia Escravista. Minas Gerais no Século XIX* (São Paulo, 1988), pp. 58–61. However Libby does comment that data from the 1830s suggest that Minas Gerais was still importing slaves during that decade.

¹² Francisco Vidal Luna, *Minas Gerais: Escravos e Senhores: Análise da Estrutura Populacional e Económica de alguns Centros Minerários 1718–1804* (São Paulo, 1981), p. 132.

¹³ Tarcísio Rodrigues Botelho, *Demografia da Escravidão Norte-Mineira no Século XIX*, unpublished BA. monograph, FAFICH-UFMG, Belo Horizonte, 1990.

¹⁴ Libby, *Transformação e Trabalho*, pp. 47–52.

were from Minas Gerais; but the small size of his sample, 105 *mineiros* out of a total of 693 slaves imported over a thirty-year period, does not suggest 'an intense intraprovincial trade'.¹⁵ Tarcísio Rodrigues Botelho also has discovered references to a slave trade between Montes Claros and the *zona da mata* via Diamantina, but again the volume of this commerce is as yet unknown.¹⁶ That a trade in free persons existed suggests that the volume of *mineiro* slaves sold elsewhere was insufficient to meet the demand.¹⁷ Slave holders in Minas Gerais may indeed have been reluctant to give up their slaves, as Martins suggests, but some were traders willing to 'produce' slaves through illegal seizure.

New evidence gathered from the manuscript collection of the provincial police department of Minas Gerais reveals a hidden dimension to *mineiro* participation in the slave trade.¹⁸ This clandestine trade has escaped the attention of historians such as Martins and Martins Filho, who consulted only published provincial reports in their search for references about slave exports.¹⁹ The dimensions of this illicit trade, like that of the legal internal trade in slaves, are unclear. We have no way of knowing the extent to which the number of recorded complaints reflects the actual incidence of this crime.

This documentation, although limited in volume, reveals much information about both captors and captives. It provides an insight into the flexible system of municipal government that existed in remote regions of Imperial Brazil. Elected and appointed officials were among the most active participants in the illegal trade. They used personal influence, partisan alignments, kinship, and knowledge of the legal system to escape formal charges of illicit trafficking. Other municipal authorities and bureaucrats fought to contain extralegal abuses and to protect the rights of the wrongfully enslaved. This article re-examines the dynamics of a

¹⁵ 'Notas Prévias sobre a Escravidão na Zona da Mata em Minas Gerais [Século XIX]' *Anais do V Seminário sobre a Economia Mineira* (Belo Horizonte, 1990), pp. 53–84.

¹⁶ M.A. thesis in progress.

¹⁷ Robert Conrad estimates that 300,000 slaves were relocated in the interprovincial trade between 1850 and 1880: *Worlds of Sorrow. The African Slave Trade to Brazil* (Baton Rouge, 1986), p. 47.

¹⁸ These documents came to my attention during a systematic survey of the APM collection of police records, dating from 1835 to 1889. More than fifty different cases were reported, almost all occurring in the 1850s and 1860s. Numerous references to the illegal enslavement and sale of free people were exchanged between the police chief and the municipal police delegates and sub-delegates. Documentation ranges from perfunctory and inconclusive memos to lengthy court cases which took years to resolve.

¹⁹ Martins Filho and Martins, 'Slavery in a Non-export Economy', p. 548. Most of the correspondence addressing illegal enslavement of free people of colour was confidential [*reservado*]. Although mentioned in manuscript police reports to the president, the topic does not appear in published police statistics.

system which simultaneously generated struggle against the trade and yet sustained the conditions most conducive to its very existence.

Most illegally enslaved individuals were exported to the coffee regions of Minas Gerais, Rio de Janeiro and São Paulo. Information about the destination of these captives is fragmentary but at least two likely trajectories can be reconstructed. One road led from Paracatú to São Paulo passing through the Triângulo Mineiro, Uberaba, Araxá and Patrocínio, to Franca (located just inside the São Paulo boarder). The route to Rio de Janeiro is more obscure. Abaeté may have been one way station on the itinerary if the experience of Felisbino Antônio da Cunha of Paracatú is typical. Felisbino travelled to Abaeté, where a colleague was holding ‘ten lovely *mulatas* from Goiás’ to sell in Rio de Janeiro.²⁰ Free people abducted in northern Minas passed through either Paracatú or Diamantina to the coffee regions of Minas Gerais and Rio. There are also isolated references to traders from Itabira and Caeté, and of ‘men of high social position’ in Caldas reducing free children to slavery for sale outside the province.²¹

The most active nexus of the trade was the *comarca* of Paracatú, which bordered the province of Goiás to the west and north, and the *comarca* of São Francisco to the east. Paracatú apparently served as a magnet for itinerant traders from Goiás, the *zona da mata* (Leopoldina and Barbacena), Rio de Janeiro and São Paulo. It also boasted at least two active resident slave traders, Captain Bernardo Bello Soares de Souza and Silvério José Alves de Souza Rangel. Officials on both sides of the border recognised it as the main conduit of the slave trade from Goiás. The provincial police chief of Minas Gerais, in an official report of 1862, confirmed that ‘Paracatú, due to its topography or perhaps to the disposition of its inhabitants (the majority hailing from the backlands of the bordering provinces) has been the theatre of this horrendous crime of human traffic... the newspapers have published that free people there are rounded up for sale as cattle are rounded up in the fields’.²² The indignant response of the *juiz de direito* of Paracatú to this ‘injurious insinuation’ lacks credibility given the numerous cases reported to the provincial chief of police.²³

This illicit trade was equally prevalent on both sides of the border between Minas Gerais and Goiás. Unfortunately, officials generally offered tantalisingly few details about the captives, the circumstances of

²⁰ SP 707, Subdelegate of Alegre, C. S. de Oliveira to PPMG, 13 Feb. 1858.

²¹ SP 710, Substitute police delegate João Procípio to PPMG, 12 Dec. 1858.

²² SP 933, Report of second section of the provincial police to the provincial president of Minas Gerais, 21 Jan. 1862.

²³ SP 933, Joaquim Pedro Vellaça to the provincial president, Paracatú, 8 April 1862.

their capture, and the outcomes of such kidnapping attempts. Of the *liberta* Ednariga de Souza, illegally purchased in 1858 in Santa Luzia, Goiás by João Padilha of Barbacena, we know little more than her name and that of her former owner.²⁴ The provincial president of Goiás provided even scantier information about the enslavement of several free children by *mineiro* traffickers in 1859.²⁵

Some unfortunate victims were enslaved by relatives to be sold to strangers. Thus, the *parda* Joana testified that Faustino José de Almeida, in collusion with her uncle Malaquias, had reduced her to slavery.²⁶ She was liberated by the subdelegate of Buriti, a district of Paracatú, who discovered irregularities in her ownership papers. Sixteen year old Cyrillo, *pardo escuro* and literate, and his brother Joaquim, *claro*, aged thirteen, were also enslaved by a relative (in this case their father José Martins dos Santos from Januária). He sold them to Captain Bernardo Bello Soares de Souza in 1861. Upon discovering this fact the municipal judge of Paracatú sent authorities in pursuit in the direction of Franca.²⁷ The boys were liberated in 1862 but Bernardo remained free and unpunished.²⁸

In Montes Claros one slaveowner illegally sold his *liberto* grandchild to an outsider, who then resold the child to his own father. Manoel Ursino de Araujo Grimaldo had abandoned his wife with her young son and one very prolific slave. Only one of the slave's children, Cypriano, was freed on the baptismal form. Manoel Ursino's son, Benigno, was named the child's *padrinho* (godparent) and presumably was his natural father. After an absence of several years, Manoel returned and sold fifteen slaves in his wife's possession to Manoel Caetano Souza e Silva. Benigno, rather than suing for his son Cypriano's freedom, purchased the boy from Manoel Caetano for 400\$000 and thereby reduced his son to slavery, putting to an end fourteen years of freedom!²⁹

What is striking is the extent to which municipal authorities were involved in this illicit trade. In 1862, an official from Patrocínio reported that Captain José Pires de Lima from Bagagem had enslaved six free persons from Catalão to be delivered to the heirs of their former master, resident in Piumi.³⁰ Another *goiana*, 'Theodora', also from Catalão, was sold under the name of Cassiana by three men from Paracatú, including

²⁴ SP 707, Francisco Januário da Gama Cerqueira to PPMG, 11 March 1858.

²⁵ SP 763, Francisco Januário da Gama Cerqueira to PPMG, 15 Oct. 1859; SP 763, José Pinto de Barros, Municipal Judge of Santa Maria, GO to PPMG, 31 Aug. 1859.

²⁶ SP 819, Joaquim Pedro Vellaça to PPMG, 21 April 1860, APM.

²⁷ SP 878, Police Chief Quintiliano José da Silva to PPMG, 11 June 1861, APM.

²⁸ SP 932, João Chrysostono Pinto da Fonseca Jr. to PPMG, 22 Feb. 1862.

²⁹ SP 937, delegate of Januária, João Elisberio de Souza to provincial police chief, 29 Nov. 1862.

³⁰ SP 987, Antônio Alves de Souza Soares to PPMG, 6 April 1863; SP 988, Soares to PPMG, July 1863.

a local official, Justiniano de Mello Franco. Reputedly, delegate José da Costa Rangel, who denied the existence of the trade in free persons in 1855, was also guilty of enslaving a minor from Catalão years later.³¹

Official collusion or participation becomes even more evident in the few detailed cases preserved by the provincial police department. One of the more elaborate accounts concerns Antônio Baptista Neves, a free *pardo* who made a formal complaint to the police delegate of Paracatú in 1858. Antônio charged that the sub-delegate, Felisbino Antônio da Cunha, had attempted to enslave him, his wife Teresa, their seven children, and a son-in-law, João. Felisbino and two cronies invaded Antônio's home and kidnapped the family. After two days of forced marches along deserted roads, the party was rescued by a local posse of fifteen men gathered by a neighbour who had witnessed the abduction. Teresa and one daughter were not recovered, and João perished on the road. Felisbino was tried along with an accomplice, substitute municipal judge Antônio Cardoso, who had 'cold-bloodedly' responded to Teresa's elderly mother-in-law that he would investigate the matter for payment of 1:000.000 reis per person (about £250; five times the annual salary of an artisan or small farmer). The culprits were set free shortly thereafter. Rumour had it that Felisbino was also guilty of selling a free black boy, João Bagre, and another free mulatto, but the charge was dismissed for lack of proof.³²

Documentation from Paracatú indicates not only an extensive trade in slaves and free people; it also reveals how the intersection of political alliances, official intervention, and private initiative could either help or hinder attempts to reduce free people to slavery illegitimately. The legal vicissitudes of Silvério José Alves de Souza Rangel illustrates the complexity of these cases. In 1855 the Justice of the Peace of the district of Alegres, Padre José Moira Barbosa, and a substitute police deputy, Vicente José Chrispiniano, first accused him of trafficking in free people. Silvério Rangel responded by filing a formal complaint against Moira, questioning his competence. It was accepted by the *juiz de direito*, thus delaying the case. Rangel also prevailed upon his friendship with the district attorney not to press charges. Police delegate José da Costa Rangel, municipal judge Antônio Joaquim de Figueiredo Seabra and district judge Joaquim Pedro Vellaça also attested to Silvério's innocence on this specific charge. They did not deny his participation in the slave trade, but rejected the possibility of his involvement in illegal captivity.

³¹ SP 986, Joaquim Pedro Vellaça, district judge of Paracatú, to PPMG, 22 Jan. 1863; SP 932, Eufrasio José de Andrade Cabral to PPMG, 2 March 1862; and SP 566, Police Delegate José da Costa Rangel to PPMG, 20 Aug. 1855.

³² SP 707, C. S. de Oliveira, subdelegate of Alegres to PPMG, 13 Feb. 1858, and Joaquim Pedro Vellaça to PPMG, 21 March 1858.

In his defence, Silvério Rangel produced certificates of sale, dating from 1833 and 1834, for the purchase of a number of slaves from the heirs of Francisco da Cunha Campos and his wife Eulalia Marques. These included: João, five months old, for 150\$000 reis; Antonio da Costa for 300\$000; his wife, Joana da Costa for 400\$000; their daughter, Francelina, aged two, for 120\$000; and another child, Maria, for 60\$000. Silvério alleged that Francelina and her brother Geraldo had fled in 1846, taking advantage of a time in which he, their owner, had suffered local persecution for his political beliefs. He had lived in Bahia for three years, abandoning his slaves and property, while waiting for a more favourable political climate.³³ Upon his return he recovered Francelina, who by then had three children, Isabel, Marco and Pio, and sold them.

The case languished for six years until 1861 when police deputy Vicente José Chrispiniano renewed his attacks against Silvério Rangel. He accused Rangel not only of the illegal sale of Francelina and her children, but also of the abduction of the widow Graciana Perpetua, and her children, a grown son, Geraldo Marques, and Julião, aged nine.³⁴ Francelina and two of her children were placed in custody. With the help of the deputy, she produced her *carta da liberdade* along with a copy of her former master's will, in which neither she nor her children were listed.

Chrispiano strengthened his case by revealing that in 1833 Silvério had murdered both a crown judge (*ouvidor*) of Goiás and a Portuguese rancher, from whom he had stolen 120 horses.³⁵ Silvério had not been punished because he enjoyed the protection of a municipal councillor and the police deputy. But district magistrate Vellaça backed Silvério Rangel, denying these personal connections.³⁶ A rather coy letter addressed to the provincial president from municipal councillor Eufrasio José de Andrade Cabral linked local corruption to members of the Liberal party. This 'humble citizen, raiser of chickens' identified José da Costa Rangel, Justiniano de Mello Franco, district judge Vellaça, various police delegates and Silvério Rangel himself as Liberals who had abused their positions in order to participate in the illicit trade.³⁷

The Rangel affair finally unravelled, due to the combined and sustained efforts of the district attorney, a police deputy and two priests. The will of Francisco Campos listed eight slaves: Antônio Africano, Joana

³³ SP 566, *autos* of Silvério Rangel, 21 Aug. 1855.

³⁴ SP 879, Vicente José Christiniano, 6th police subdelegate of Paracatú to PPMG, 31 Dec. 1861.

³⁵ SP 933, Padre José de Moira Barbosa, acting justice of the peace to PPMG, 2 April 1862 and Joaquim Pedro Vellaça to PPMG, 8 April 1862.

³⁶ SP 932, Vicente José Crispiano to district judge of Paracatú Joaquim Pedro Vellaça, 27 Feb. 1862; Joaquim Pedro Vellaça to PPMG, 2 March 1862.

³⁷ SP 932, Eufrálio José de Andrade Cabral to PPMG, 2 March 1862.

Africana, João, Emerenciano, Joaquim, Graciana, Maria and Romão. According to the heirs, Francelina, daughter of Antônio and Joana had been awarded her freedom at birth, as too had Geraldo. Geraldo, moreover, was the son of Graciana and not the brother of Francelina. Graciana had another son, Julião, baptised as a free person. Silvério had sold Geraldo twice, the first time in 1844, to a woman. After she discovered that he was *liberto* she annulled the sale. Silvério Rangel, with the aid of twelve hired thugs and falsified papers, went in pursuit of Geraldo and captured him along with Graciana, Julião, Joaquina Africana, Francelina and her six children (none of whom were named Isabel or Pio) and resold them in 1855.³⁸ In December 1862, the legal action against Silvério Rangel was suspended and Francelina and two of her children received their liberty.³⁹ Graciana and Julião were sold to a *fazendeiro* in Araxá and were never recovered, despite the efforts of the local vicar who was also Julião's godfather.⁴⁰ The fate of Geraldo, Joaquina and Francelina's other four children is unknown.

Documentation from Paracatú most clearly reveals the ease with which elected and appointed officials indulged in the illegal trade with little fear or reprisal. Many of those involved were officers of the National Guard who enjoyed ready control over armed subordinates. Silvério Rangel was wealthy and had both friends and kin in high places. Although a recognised murderer he remained free and unpunished thirty years after the fact. He had fled the community when the political tide turned against him, to return only when his allies reassumed power. Rangel's behaviour was commonplace in an under-policed region, manned by low-paid, corrupt authorities and equipped with flimsy jails constructed of mud and straw.

The trade in free persons reached its peak, or at least the height of official recognition, during the years 1860–4. In his annual report to the provincial president in 1862 the police chief of Minas Gerais devoted a separate section to the problem.⁴¹ In that year occurrences were reported in Grão Mogol, Tres Pontas, Itambé, Jacuí and Montes Claros, as well as the infamous Paracatú. The majority of victims were women and children, some of them infants. Rare were cases such as that of a man from Serro,

³⁸ SP 935, Caetano Rodrigues Horta, interim district attorney to police deputy of Paracatú, 7 July 1862. Chrysostono, accused of trafficking in illegal captives in 1855, denounced Captain Bernardo Bello Soares for the same crime in 1862, SP 932, Chrytostono Pinto da Fonseca Jr to PPMG, 22 Feb. 1862.

³⁹ SP 937, Municipal judge João de Pina de Vasconcellos to PPMG, 22 Dec. 1862.

⁴⁰ SP 936, Padre José de Souza Nogueira, Paracatú, 15 July 1861.

⁴¹ SP 935, Annual report of Ludgero Gonçalves da Silva, July 1862. It is interesting to note that in the published version, included in the provincial president's annual report, this section is absent.

who was illegally enslaved by an overseer of the Baron of Rio Preto. When the victim requested an audience with the subdelegate, his free status was quickly confirmed by a number of passers-by, including Dr José Joaquim Ferreira Rabello, deputy to the general assembly, who declared him to be a qualified voter in Serro.⁴² Women and children were able to gain access to local police and judicial authorities and their claims seem to have been taken seriously. Attempts to sell the orphan Maria, aged 5, in Grão Mogol or the child Raimunda, in Minas Novas; João, aged 7, in Uberaba; Maria Vitoria in Diamantina; Manoel, aged 14, in Montes Claros were all caught during the act of sale, although the mechanism leading to these interventions is unclear.⁴³ Potential buyers may have been reluctant to enter into such dubious transactions.

It is tempting to speculate that these women and children played an active role in the prevention of their sale and the arrest of their captors. Even when these sales were halted far from the victims' circle of friends, relatives and protectors, they still were able to make contact with the police and magistrates. Available police documentation does not provide sufficient detail to reach a firm conclusion. The strategies used to attract official attention and navigate through the municipal justice system can only be reconstructed by examining trial records housed in a multitude of local archives, an endeavour beyond the scope of this article.

However, it is likely that the intervention of friends, neighbours, relatives or godparents was crucial to this process. The participation of individuals such as *padre* Nogueira from Paracatú, godparent of Julião, or a couple from Montes Claros who reported the illegal capture of a neighbour, Jesuina Francisca de Faria and her newborn daughter, was vital.⁴⁴ The case of the family of Anna Ribeiro e Andrade of Barra do Rio das Velhas provides one of the more striking examples of community protection and solidarity. The local vicar indignantly denounced the attempt of one Joaquim de Souza Freitas (who had appeared in Barra with a government order) to apprehend the family and sell them as slaves. The entire community, even elderly residents in their eighties, defended the free status of this prolific family and their status as free persons was said to extend back for five generations.⁴⁵ The chief of police maintained Joaquim's innocence, citing a writ in his possession signed by the municipal judge of Curvelo authorising him to apprehend various slaves. Joaquim had not presented the order because he had planned to arrest the

⁴² SP 989, Police subdelegate of Serro to PPMG, 19 Dec. 1863.

⁴³ SP 878, Quintiliano José da Silva to PPMG, 2 Sept. 1861, SP 1046; João Antônio Afronso to provincial vice president of Minas Gerais, 13 June 1864, SP 935; Ludgero Gonçalves da Silva to PPMG, July 1862, SP 1045; police statistics, 17 May 1863; SP 1045.

⁴⁴ SP 935, Ludgero Gonçalves da Silva to PPMG, 18 Aug. 1862.

⁴⁵ SP 762, petition of Reverendo Padre da Barra do Rio das Velhas, 12 July 1859.

supposed captives in secret, being aware of the protection and favour that the family enjoyed in the local community. He promised to return with additional documentation but never reappeared, lending credence to the claims of the incensed *padre*.⁴⁶

The inhabitants of Patrocínio, located on the route from Paracatú to São Paulo, also expressed intense community disapproval when Captain Pires arrived with six illegally held captives. They greeted the trader with ‘a severe and silent censure which spread through the crowd of more than eight hundred people’.⁴⁷ However, in this case community disapproval was not sufficient to bar the sale.

Perhaps the coordination of police and judicial authorities from distant municipalities, and even from beyond the provincial borders, was even more crucial than community support. The following two examples go beyond simple abduction, and involve more complicated questions of inheritance and conditional manumission. A poor woman, Germana, upon arriving in Patrocínio under the power of Joaquim Valladares and Cândido Pereira, declared that she and four children were free. Restoration of her status and that of her children required the concerted efforts of the municipal judges of Patrocínio and São Romão and a police delegate from the district of Santa Anna da Barra do Espírito Santo. Valladares failed to produce adequate documentation proving his ownership, although he did present some dubious inheritance papers.

In the investigation that followed, the police delegate confirmed that Germana and her children had lived independently (*sobre si*) in the district of Santa Anna since the death of her former mistress, Luiza Clemência, three years before. The municipal judge of São Romão offered further clarification. Upon the death of Luiza Clemência, Valladares, a distant heir, petitioned the court for a warrant to apprehend the slaves belonging to the estate. Germana protested, claiming that her mistress had freed her at baptism but had not left written proof. Germana was placed in custody until her case could be resolved. The judge who handled Valladares’s claim, unaware of these precedents, handed Germana and family over to him. Happily, her problem was quickly resolved. After Valladares and his accomplices broke out of the municipal jail of Paracatú while awaiting trial, the authorities assumed their guilt and dismissed the claim. Germana and her children were set free and returned home to São Romão.⁴⁸

⁴⁶ SP 763, Chief of Police of Minas Gerais, 27 Oct. 1859.

⁴⁷ SP 988, Antônio Alves de Souza Soares, police delegate of Patrocínio, to PPMG, 7 June 1863.

⁴⁸ SP 935, Manoel Ferreira de Almeida, municipal judge of Patrocínio to VPPMG, 21 July 1862; requisition of Francisco Rodrigues Marins, Subdelegate of Santa Anna da Barra do Espírito Santo Municipal Judge Almeida, 2 July 1862 and Ludgero

Maria and her children, who claimed to have been reduced to illegal captivity in the municipality of Franca in São Paulo, were less fortunate. The police delegate of Franca brought suit against Belfort Garcia Lopes, Manoel Pereira Cassiano, José Vicente and Maria Angelica. The four accused were acquitted, and Maria was placed in custody until she could prove her freedom.⁴⁹ Cassiano had also illegally enslaved Maria's brother, José Pereira da Rocha, resident of Uberaba. José managed to escape and gathered evidence to prove his status from both the community of Uberaba and Santa Anna do Rio das Velhas, his former residence. Witnesses included his former owner's niece, who vouched for his *carta da liberdade*, and the subdelegate of Santa Anna, who swore that he was free and had even served as court bailiff. José had been granted his freedom upon his mistress's death, but the status of Maria is unclear. The documentation presented by the authorities from Santa Anna suggests that she was indeed a slave and her ultimate fate is unknown.⁵⁰

These examples suggest that, by the latter half of the nineteenth century, a clear social and legal divide existed between slave and free, and that this difference was respected and supported through community opinion.⁵¹ Especially for the colonial period, historians of Brazilian slavery have argued that the status of slave, *forro*, *liberto*, and free person of colour were blurred. Freedom could thus be considered a relative rather than an absolute term. In colonial Minas Gerais, Russell-Wood emphasises that free people of colour were identified commonly as *escravos forros* (manumitted slaves) or *libertos*, and as such were morally and legally suspect. Free blacks and mulattos often found themselves up against similar legal and economic restrictions to those of slaves.⁵² Silvia Hunold Lara also maintains that to be *liberto* was not the same as being free. 'The *liberto*, neither entirely slave nor entirely free, possessed a narrow margin

Gonçalves da Silva to VPPMG, 22 July 1862; SP 936, Ludgero Gonçalves da Silva to VPPMG, 1 Sept. 1862, SP 936.

⁴⁹ SP 935, Secretary of the Police of São Paulo to PPMG, 11 July 1862.

⁵⁰ SP 935, João Jacintho de Mendonça, Police Chief of São Paulo to VPPMG, 22 July 1862; SP 936, Manoel José Pinto da Silva, district judge of the *Comarca* of Parana to VPPMG, 11 Sept. 1862; SP 986, Constantino José da Silva Braga, district judge of Paranaiba to PPMG, 12 March 1863; SP 986, José Luciano de Resende, police subdelegate of Santa Anna to police delegate of Bagagem, 6 March 1863.

⁵¹ Legal and political distinctions did exist between *libertos* and those born free, however. In 1867, when Malheiro's treatise on slavery was published, *libertos* could only vote in primary elections and could not serve as officers in the National Guard. Perdigão Malheiro, *A Escravidão no Brasil – Ensaio Histórico, Jurídico, Social* (Rio de Janeiro, 1944; 1st pub. 1867), p. 182.

⁵² A. J. R. Russell-Wood, 'Colonial Brazil', in David W. Cohen and Jack P. Greene (eds.), *Neither Slave nor Free: the Freedmen of African Descent in the Slave Societies of the New World* (Baltimore, 1972), p. 109.

of action and could easily be reclaimed as a slave by his former master.⁵³ Although manumitted slaves did sue for, and win, their freedom, on the basis of informal or verbal arrangements, their manumission could be rescinded if they did not continue to show respect for their former owners. In colonial Bahia and Rio de Janeiro, wronged slaves even petitioned the king of Portugal directly.⁵⁴

The precariousness of freedom during the colonial era was evident in the concept *bens do vento* (literally property of the wind). By the early eighteenth century, officials used this phrase, previously limited to stray cattle or livestock, to describe free blacks, mulattos, and ex-slaves. Transient blacks, as such, could be rounded up, jailed for up to sixty days to enable an owner to reclaim them, and then sold at public auction.⁵⁵ They were presumed to be slaves until proven free.

By the nineteenth century, attitudes and customs had shifted in favour of the *liberto*. In 1835, Joaquim José de Azevedo tried to claim the *liberta* Rosa as part of an inheritance. Rosa had been liberated at birth by her mother's owner, Eduardo, Azevedo's uncle. The justice of the peace of Montes Claros, Felipe Pereira de Carvalho, expressed indignation when Rosa's liberty was questioned, arguing 'the possession of freedom is an extremely sacred, inviolable, inalienable right recognised by all men and sanctioned by all legal codes. The very Roman jurists affirm that slavery is against natural law'. He also argued that when a person's liberty was challenged in court, that individual should not be placed in protective custody as if she were a slave, but should be treated as a free person during litigation.⁵⁶

The case of African-born Joaquim Francisco Benguela also illustrates changing attitudes about slavery and freedom. Joaquim had been arrested in Congonhas de Sabará for 'appearing to be a captive', and was detained in the prison of Ouro Preto. When questioned by the chief of police he declared that he was a free African and had fled from the Company União e Indústria where he had been employed. The chief of police communicated this to the company and, after receiving no response, decided to release him, 'the continuation of his imprisonment on mere suspicion being irregular'.⁵⁷ In the absence of evidence, Joaquim was

⁵³ Silvia Hunold Lara, *Campos de Violência* (Rio de Janeiro, 1988), p. 268.

⁵⁴ A. J. R. Russell-Wood, 'A Cause Célèbre of Colonial Brazil: Antonio Fernandes' personal struggle for justice,' *Revista da Sociedade Brasileira de Pesquisa Histórica*, vol. 4 (1987–8), pp. 1–8.

⁵⁵ Robert Conrad, *Children of God's Fire. A Documentary History of Black Slavery in Brazil* (Princeton, 1983), p. 326.

⁵⁶ SP PP 1/18, cx. 63, doc. 10, Felipe Pereira de Carvalho to Oliveira e Castro, 10 Jan. 1835.

⁵⁷ SP 1140, Quintiliano José da Silva to PPMG, 25 May 1856 [italics mine].

assumed to be free rather than slave. In the colonial era absence of evidence would have led to the assumption of slave status. By the late nineteenth century similar lack of documentation led to the preservation of freedom.

Descendants of slaves were incorporated into larger communities over time. This process was similar to that undergone by slaves in West and Central African societies. Upon enslavement, captives 'belonged to' the owner's family, although they held marginal status within the kin group. Slaves and their descendants did not want freedom, in the Western definition of an autonomous existence. Rather they wanted to 'belong in' an extended kinship group as an active members. This paper suggests that *libertos* and free people of colour in the *sertão mineiro* had made this shift and had become incorporated into their local communities, rather than suffering permanent marginality. They were able to activate personal and family relations, cutting across social strata in order to regain their freedom.⁵⁸

In the case of Northern Minas, racial considerations may have operated in the defence of freedom as well. Although no detailed studies of the racial composition of the São Francisco region exist, more generalised research on the demography of nineteenth-century Minas indicates a coloured majority. Foreign travellers who traversed the North also commented on the scarcity of white people in the *sertão*. There was probably little phenotypical difference to distinguish rich landowners from poor squatters from creole born slaves.⁵⁹

Harry Hoetink's concepts of the 'somatic norm image' and 'somatic distance' may help to explain why municipal officials were willing to help illegally enslaved victims. Hoetink argues that differences in the 'somatic norm image' contributed to the development of comparative race relations in the Americas. In Iberian regions less somatic distance existed between 'whites' and mulattos than in North European colonies. Latin American whites were darker still, yet still within acceptable Iberian limits. The perceived distance between a Brazilian 'white' and a light-skinned mulatto could be minimal.

⁵⁸ Igor Kopytoff and Suzanne Miers, 'African Slavery as an Institution of Marginality', in Miers and Kopytoff (eds.), *Slavery in Africa: Historical and Anthropological Perspectives* (Madison, 1977), pp. 1–83.

⁵⁹ Parish birth, marriage and death records submitted to the provincial government show a pardo/mulatto majority in the communities of Northern Minas Gerais. SP 256, Barra do Rio das Velhas, 1 June 1837; São Romão, 6 July 1839; Contendas, 10 July 1839; Montes Claros, 16 July 1839; São José de Gorutuba, 15 July 1839. SP 257, Contendas, 15 Jan. 1840; São José de Gorutuba, 15 Jan. 1840; Montes Claros, 26 Jan. 1840. SP 572, Contendas, 22 Jan. 1855; São José de Gorutuba, 9 Feb. 1855; Barra do Rio das Velhas, 19 Feb. 1855; Coração de Jesus, 1 Sept. 1855; Manga, 2 Sept. 1855; Morrinhos, 15 Sept. 1855. SP 609, Montes Claros, 10 Jan. 1856; Januária, 2 Feb. 1856.

In Northern Minas a relatively dark ‘somatic norm’ may have inhibited racial prejudice, or even promoted solidarity.⁶⁰ If the cultural and racial distance between free and slave was minimal, municipal officials may have been more likely to believe the complaints of illegally enslaved people of colour. It should also be stressed that although local elites frequently criticised the behaviour of the lower classes, they hardly ever grounded their commentaries in racial terms.

In the *sertão mineiro*, a variety of people from all levels of society participated in the definition of slavery. Communities were divided over what conditions of captivity were acceptable. A large sector of the population rejected the subjection of free people to slavery by force, kidnapping or fraud. No matter how humble and powerless the victims, they had a fair chance of finding somebody who would champion their cause. The municipal bureaucrats who defended victims of illicit captivity did not condemn the institution of slavery, but believed that free persons should not be arbitrarily condemned to captivity. They recognised the essential humanity of these victims, who may indeed have been slaves.

Such willingness to admit that potential slaves had the right to legal representation and negotiation provides a powerful challenge to Orlando Patterson’s conception of slavery as social death, ‘the permanent, violent domination of natally alienated and generally dishonored persons’. Patterson argues that the act of enslavement renders the captive ‘socially dead’, that is, divorced from his kin and culture. Slavery is a substitute for death and the slave’s continued existence depends upon subordination to the master. Patterson maintains, ‘Because the slave has no socially recognized existence outside of his master, he became a social non-person’.⁶¹ Patterson’s model might obtain for first-generation slaves who experienced the act of enslavement but does not apply thereafter. In Northern Minas dominant members of society recognised the humanity and legal rights of slaves, ex-slaves, and the illegally enslaved to sue for their freedom. The interconnectedness of free and slave communities has also been emphasised by Silvia Lara in her study of slavery in the sugar region of Campos, Rio de Janeiro. The ways in which slaves, free people of colour, and elites worked together to free the illegally enslaved suggests that slaves and potential slaves were not socially dead, but very much alive.

Sidney Chaloub, in his work on slavery in Rio de Janeiro during the nineteenth century, shows how slaves themselves participated in

⁶⁰ See Harry Hoetink’s critical essay, *Caribbean Race Relations. A Study of Two Variants* (London/New York, 1967), p. 120.

⁶¹ Orlando Patterson, *Slavery and Social Death. A Comparative Study* (Boston, 1982), pp. 5 and 13.

formalising rights which they had gradually achieved through custom. His examination of criminal and civil trial proceedings reveals that slaves exerted a fair amount of control in determining the conditions of their sale, choice of master, and choice of work. By the second half of the nineteenth century, at least in the city of Rio, slaves had gained limited recognition as legal subjects, challenging the conceptualisation of ‘slave as thing’ posited by Gorender and others.⁶² If slaves and ex-slaves had made gains in their ability to manoeuvre within the judicial system, it is not unreasonable to assume that free people of colour achieved similar advances.

Chaloub’s work focuses on Rio de Janeiro, which might tempt one to discount it as an atypical case. Rio, as the centre of juridical and political culture of Brazil, and possessing a large and unusually mobile slave population, could be said to represent the pinnacle of judicial opportunity available to the slave. However this article’s evidence from Northern Minas shows that Chaloub’s findings have broader applicability. A more expansive notion of the rights of slaves and ex-slaves was disseminated even to the farthest reaches of the Brazilian *sertão*.

The legal status of the free poor during the Empire has been little studied.⁶³ According to sociologist Maria Sylvia de Carvalho Franco, communitarian norms of friendship and *parentesco* (family influence) superseded formal legal values in the Brazilian Empire. The free poor, economically marginal and conflict-ridden, resolved their differences through violence, considered an acceptable means within the code of the *sertão*. A breach thus existed between personalised local mores and formal bureaucratic values. The municipal police and justice systems, manned by untrained locals, were likely to arrive at rapid solutions grounded in local custom rather than decisions based on formal legal precepts.⁶⁴

Examples of attempts to enslave free people in the *sertão mineiro* suggest that Franco’s portrait of the Brazilian interior has been overdrawn. Although municipal law and order did not operate according to the legislation passed by the central government, a strict dichotomy did not necessarily exist between the two value systems.⁶⁵ Personalised norms infiltrated administration just as formal legal precepts filtered down to the free poor. At a minimum, an instrumental interchange existed between the two. The illegally enslaved came from the poorest, most vulnerable

⁶² Sydney Chaloub, *Visões da Liberdade* (São Paulo, 1990), p. 38. For Jacob Gorender’s Marxist formulation of slave as object [*coisificação*] see *O Escravismo Colonial*, 4th ed. (São Paulo, 1985), pp. 46–69.

⁶³ A notable exception is Maria Sylvia de Carvalho Franco, *Homens Livres na Ordem Escravocrata*, 3rd ed. (São Paulo, 1979).

⁶⁴ Carvalho Franco, *Homens Livres*, pp. 124–31.

⁶⁵ Thomas Flory, *Judge and Jury in Imperial Brazil 1808–1871* (Austin, 1981).

segment of society, yet they did not act as if they themselves perceived their existence to be as closed and unchangeable as Franco would have us believe.⁶⁶ The *sertão mineiro*, site of the illegal trade, was a fluid frontier society similar in many respects to the Paulista interior, but this did not prohibit the development of community solidarity nor a blending of customary and bureaucratic values. Both slavers and enslaved employed mixed strategies including kinship networks, bureaucratic alliances, formal documentation, written proof, verbal testimony, and the manipulation of legal minutiae.

The following case of Antônio and Luiz suggests that even in the interior of Minas Gerais, slaves or *libertos* were aware of the expanded legal possibilities open to them by the 1860s. In 1866, Antônio and Luiz presented themselves to the police delegate of Jaguary, claiming that they had been reduced to slavery by Manoel Ferreira de Carvalho. They were the sons of Anna Pingueira, legitimate daughter of Maria and Francisco Benguela, former slaves of Balthazar de Tal. Maria had been granted manumission on the condition that she serve his heirs for a period of four years following her master's death. She gave birth to Anna during that four-year period in 1803. Anna, in turn, had two sons, Luiz and Antônio, baptised in 1819 and 1824 respectively. The son-in-law of Balthazar, Antônio Pinto, sold them to Carvalho when they were still young boys.⁶⁷

Approximately forty years later, Antônio and Luiz sued for their freedom based on the claim that their mother Anna had not been a slave at the time of their birth. Balthazar's widow upheld their story, affirming that the children of her former slave Anna had been born of a free womb. It was up to the municipal judge of Baependi to decide whether or not the womb of a conditionally manumitted slave was in fact free. The judge upheld the rights of the defendant, Anna. He affirmed that her mother Maria was no longer subject to 'absolute slavery' when her daughter was born, but merely the obligation to perform services. During this period she could not be sold, mortgaged or alienated by anybody other than her original owner. Under the premise *partus sequitur ventrem* (birth follows the womb) neither Anna nor her sons were born slaves. Antônio and Luiz were granted their freedom.⁶⁸

Conditional manumission, according to the nineteenth-century authority Perdigão Malheiro, was both the bane of Roman jurists and a

⁶⁶ Carvalho Franco, *Homens Livres*, p. 100.

⁶⁷ SP 1187, Police Delegate of Jaguary, Bento Gomes de Creobar to police chief Pedro Francelino Guimarães, 18 May 1867; statement of Maria Francisca de Paula, 18 May 1867 and copy of baptism records of Anna, 2 Feb. 1803, Luiz, 1819 and Antônio, 1824.

⁶⁸ SP 1187, *autos de libelo civil* between Maria Francisca de Paula and Antônio Pinto Ribeiro and the defendants Anna Crioula and her *procurador* Andrade Borges, Baependi, 18 May 1867.

constant source of torment for contemporary magistrates.⁶⁹ Malheiro, a respected jurist, publicist, slaveowner and conservative advocate of gradual abolition, published an essay on slavery in 1867 which would serve as the blueprint for the law of the free womb of 1871. According to him, conditional manumission, 'once conferred gave the slave the *acquisition of the right* to freedom, but delayed or suspended the slave from *exercising that right*'.⁷⁰ A conditionally manumitted slave could not be sold or mortgaged. Children of slave mothers born during an interim period were to be considered free, 'given that the womb is free, the condition or terms of the contract neither changes nor alters the status of the mother, as to her true and essential free condition'.⁷¹ In practice, the decision in such circumstances could vary from case to case.⁷² In the three examples cited by Chaloub concerning conditionally manumitted mothers, the court ruled in favour of the slaves.⁷³

Perdigão Malheiro also analysed re-enslavement of manumitted slaves for ingratitude. This possibility, although often mentioned by scholars of Brazilian slavery, was not such a frequent occurrence, according to the recent studies of Chaloub, Karasch, Eisenberg and Lara.⁷⁴ Perdigão condemned the revocation of manumission for ingratitude, as did the Brazilian Institute of Lawyers. He argued that the slave is free by natural law and only a legal fiction reduces him to slavery. Once restored to his natural rights, it would be immoral to subject the ex-slave to captivity. Perdigão predicted that this possibility would soon be struck from the civil code (and it was, on 28 September 1871). His opinion is worth quoting at some length:

In the revocation of a donation of property, the problem is simple, it is a question of property which is resolved by restitution or indemnisation. But in the revocation of *alforria*, the result is different. [The ex-slave] is a person, a citizen, who would lose all his rights as citizen, husband or wife, father, property owner, farmer, merchant, manufacturer, public, military or ecclesiastical employee, in short all of his *personality, his status, family, civil and political rights*, to fall into the odious and degrading condition of slavery... It would result in anarchy that would profoundly affect civil society with great damage to the State and public utility.⁷⁵

Documentation preserved by the provincial police of Minas Gerais

⁶⁹ Malheiro, '*A Escravidão*', p. 139. ⁷⁰ *Ibid.*, p. 148. ⁷¹ *Ibid.*, p. 150.
⁷² In her meticulously detailed work on slavery in Rio de Janeiro, Mary Karasch found evidence suggesting that children of conditionally manumitted mothers were considered to be slaves, *Slave Life in Rio de Janeiro, 1808–1850* (Princeton, 1987), p. 354.
⁷³ Chaloub, *Visões da Liberdade*, pp. 122–31.
⁷⁴ Chaloub located one case out of 215 examined; Karasch, 13 out of 1,319, Lara, 2 out of 133 and Eisenberg 2 out of 2,277. These figures cited in Chaloub, *Visões da Liberdade*, p. 137. ⁷⁵ Malheiro, *Escravidão*, p. 176.

yields two cases of attempted retraction of manumission for ingratitude. The first is that of Catarina, sold by a Portuguese merchant, Antônio de Oliveira Santos. After the sale had been finalised she declared that she was the free daughter of Oliveira Santos and a baptised African woman, Ambrosina. She added that she had been to France where she was formally educated, attended balls and the theatre and that she knew how to read and write, dance, play the piano, embroider with gold and silver thread, weave wool cloth to perfection, and speak Spanish and French. Catarina alleged that her father had torn up her *carta de liberdade* upon discovering evidence of her involvement in a love affair.⁷⁶ Catarina's ultimate fate is unknown, although her unusual accomplishments and background probably lent credence to her tale.

Chaloub has demonstrated that the extent to which one behaved as free or slave could be crucial in resolving one's case. In direct contrast to this privileged young woman is the case of the slave Luiz, resident in Januária. In 1864, Luiz had received conditional manumission from his owner, *dona* Andresa, a poor widow in her fifties who lived by weaving and soap making. Andresa claimed that her slave robbed her, 'showed disrespect to the point of soliciting her for dishonest purposes', beat her when she resisted, and then ran away. Luiz was then a young man in his late twenties. It is possible, though not likely, that he did proposition the widow. Regardless of the truth, the possibility of sexual misconduct carried symbolic weight. It may be that in the late 1860s simple disrespect was not considered sufficient grounds to revoke manumission. Regardless of the true motives for Andresa's dissatisfaction, she was sufficiently annoyed to contract Manoel Caetano Souza e Silva, a prominent land owner, local official and recognised scoundrel, to capture Luiz and sell him. Messias Ribeiro, a merchant from Oliveira, purchased Luiz for 200\$000 milreis but the widow did not receive her share of the proceeds. The district judge of the *comarca* of Rio São Francisco requested that the district attorney press charges against Manoel Caetano for the 'immoral act' of reducing the *liberto* Luiz to slavery. Municipal judge Antônio Francisco Teixeira Serrão, police delegate at the time of the transaction, was also charged as an accomplice for permitting an illegal sale. The local court of Januária and the provincial chief of police of Minas Gerais arrived at different conclusions concerning the case. Manoel Caetano was found guilty of the reduction of a free person to slavery and of 'abusing the good faith, ignorance, and near insanity' of the widow Andresa. Portrayed as mad, or at least simple-minded, Andresa was absolved by the jury. Messias Ribeiro and the municipal judge were also

⁷⁶ SP 710, Police Chief Rabelo Horta to PPMG, 16 Nov. 1858.

found guilty.⁷⁷ But Police Chief Belém disagreed with the judgment, arguing that 'liberty was conceded as a boon ... it is a principle of law that such boons are revocable at the will of the giver, not only by written testaments but also by facts that demonstrate the will to revoke donations'.⁷⁸ The district judge supported the interpretation of the police chief, stating 'in my humble opinion, although I consider it extremely immoral, the sale of Luiz, which his mistress undertook by proxy, was not a crime under the terms of the penal code'.⁷⁹

The illegal enslavement of free people was first classified as a criminal act in the Criminal Code of 1832 under Article 179. This measure was not to be applied in cases such as those discussed here, but to the illegal importation of Africans after 1831. Only once in Minas Gerais have I seen it applied in its intended context. In 1862, the municipal judge of Pouso Alegre discovered that the vicar of the parish of Santa Anna de Sapucaí was baptising Africans imported after 1831 and registering them as free. Discovering this, the judge was loath to recognise petitions for freedom on the part of these Africans. He argued that the law applied only to illegal shipments arriving in Brazilian ports, and not to contraband slaves in the interior. He argued that any other interpretation of the law would threaten property rights. However the Ministry of Justice ruled in favour of the slaves.⁸⁰

The evidence from Minas Gerais suggests that participation in the changing social and legal definition of slavery extended far beyond the confines of Rio de Janeiro. Chaloub has emphasised the role of the petty bureaucracy of Rio in the establishment of legal precedents and the transformation of ideas. The efforts of municipal authorities in Minas Gerais show that people in the interior also played a part in these changes. In the case of *dona* Andresa and her slave Luiz, the decision of local officials reflected the cutting edge of thought about slavery, and was in fact more 'progressive' than the opinions of the provincial level officials who also renewed the same call.

Historians of Imperial Brazil tend to view the *sertão* as lawless, dominated by clan feuds and all-powerful landlords, discounting the possibility that ideology and political beliefs could be constructed in such an environment. Yet frequently municipal judges showed awareness of the most up-to-date thinking regarding the institution of slavery. District and municipal judges were nominated from graduates trained in either Olinda or São Paulo. The role of Brazilian law faculties in creating an

⁷⁷ SP 1304, district judge of the *comarca* of Rio São Francisco, Francisco Manoel Paraiso Cavalcante to PPMG, 19 Jan. 1869, SP 1305; 27 Jan. 1869, SP 1306; 22 June 1869.

⁷⁸ SP 1307, Police Chief Francisco S. da C. Belém to PPMG, 2 Sept. 1869.

⁷⁹ SP 1306, Francisco Manoel Paraiso Cavalcante to PPMG, 22 June 1869.

⁸⁰ SP 927, municipal judge of Pouso Alegre to PPMG, 24 Nov. 1862.

homogenous national political elite has been convincingly demonstrated by José Murilo de Carvalho.⁸¹ Their role in disseminating ideology in the interior must also be recognised. By the 1850s, law graduates were present in nearly every Brazilian municipality. Their presence was critical to the spread of new ideas. The participation of these university graduates in the construction and transformation of local judicial norms demands further examination.

Ideas propagated at the centre were disseminated rapidly into the interior. The regionalism that so preoccupied Brazilian statesmen during the decades following Independence was breaking down. The remote backlands of Minas Gerais underwent a process of incorporation into a larger entity, the Brazilian nation. Local custom was giving way to national mores.

The existence of this clandestine trade in Minas Gerais, and the efforts of local administrators to halt it, shows that the processes that Chaloub details for Rio de Janeiro were part of a more generalised phenomenon. The cases from Minas Gerais also suggest a relatively strong degree of solidarity between slaves, ex-slaves, poor people of colour and municipal authorities. Slavers victimised the most disadvantaged segment of the population, rural women and children, yet their victims still managed to draw the attention of municipal police officers and magistrates. With help from more powerful members of society many succeeded in recovering their freedom, although the process could take years as in the above case of Francelina. Her victory, like many others, was limited. Her captor remained unpunished and several of her children were never recovered. The efforts of municipal authorities to stop the illegal trade call into question the extent of the legal vulnerability of *libertos* and the free poor. The fact that this commerce existed at all confirms their relative powerlessness.

⁸¹ José Murilo de Carvalho, ‘Elite and State Building in Imperial Brazil’, PhD diss., Stanford University, 1975.