

Coming to Castile with Cortés: Indigenous “Servitude” in the Sixteenth Century

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Abstract. “Coming to Castile with Cortés: Indigenous ‘Servitude’ in the Sixteenth Century” examines the circumstances of three indigenous *criados* (servants)—Pedro, Juan, and Francisco Manuel—with direct or indirect ties of patronage to the Spanish conqueror Hernán Cortés. As nonelite *indios* (Indians) displaced from Mexico to Castile, they experienced the transition from freedom to bondage in unique ways. Because the New Laws (1542) stated that, in principle, *indios* could be free in Spanish territories, all three initiated lawsuits before the tribunals of the House of Trade or the Council of the Indies. The trial depositions reveal the circumscribed life narratives of free *indios* whom others saw as slaves and whose lives were entwined with others more powerful than they. Each life story emphasizes the importance of hierarchical relations of power among masters, slaves, and servants, writ large in sixteenth-century Castile.

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In 1528, Hernán Cortés set sail with his entourage from Veracruz, arriving in Seville in May.¹ Two seafaring vessels were crammed with people, since Cortés had offered free passage to anyone wishing to accompany him. All told, about forty indigenous people, including high-ranking nobles and their families, had joined him. The two sons of Moctezuma, three Tlaxcalan princes, the son of the governor of Tenochtitlán, representatives of Cempoala, and Martín, Cortés’s six-year-old son with his interpreter, Malintzin, had all endured violent storms at sea to gaze in wonderment six weeks later at the Cathedral silhouetted against the Seville sky. Also on the ship were the dozens of *naborías* (indigenous people designated as neither slave nor free) and indigenous slaves.²

It was Cortés's first return to Spain after the fall of Tenochtitlán in 1521. He had decided to follow the advice of the emperor's confessor and president of the Council of the Indies (established in 1524), friar García de Loaysa, and request a personal audience with Charles V.³ Concerned to reestablish what had become a tenuous hold over an increasingly factionalized power base in Mexico, he hoped to persuade the king to appoint him as the first viceroy of Mexico, a position that would give him sweeping powers over his enemies. Cortés was soon disappointed, however, when he learned that the position of viceroy would never be his.⁴ Instead, he was given the title "Marquis of the Valley of Oaxaca"—where he returned the following year—and awarded numerous estates with twenty-three thousand indigenous subjects.⁵

With decidedly less flourish, Cortés journeyed to Seville a second time in early 1540.⁶ This time, instead of accruing honors, land, indigenous laborers, and a wife, his energy was sapped by a series of legal battles.⁷ During those last years of his life, when Cortés divided his time between a household he maintained in Madrid and a grand palace located five miles from Seville, he gradually lost contact with the large network of fellow soldiers and businessmen he had known in Mexico.⁸ He also became increasingly exasperated as Prince Philip (in charge of royal affairs in the absence of his father) ignored his requests for an audience.⁹ By 1547, Cortés had tired of the incessant legal wrangling and made preparations to journey back to Mexico. But he sickened, and by early December, died. It took nearly two decades before his bones crossed the sea and were laid to rest in his beloved Coyoacán.¹⁰

Cortés was the epicenter of a particular social universe that changed and adapted to the volatile political climate, whether in Mexico or Madrid. As recent historiography has shown, however, he, like other conquerors, was not the driving force of the historical period known as "the Conquest."¹¹ But he was a man of power. Over the decades, he made dozens of acquaintances and acquired hundreds of slaves, servants, and men who were willing to die in his service.¹² Cortés's patronage networks depended on his generosity toward his dependents and their loyalty and remuneration in return.¹³ Even if Córtes was not the decisive player in the defeat of the Aztecs, his actions, decisions, and trans-Atlantic movements had important consequences for the servants and slaves associated with him. In fact, the two trips he made to Spain in 1528 and 1540 had life-changing consequences for the three indigenous men from Mexico who are the subjects of this article: Juan, Francisco Manuel, and Pedro. Either directly or through linkages with persons associated with Cortés, each man experienced the transition from freedom into bondage and then litigated in Spanish courts

to prove otherwise. Their lawsuits were 3 of a total of 127 initiated by slaves categorized as *indios* before the tribunals of the House of Trade (hereafter, the Casa) or the Council of the Indies. Like other litigants, these three men considered themselves to be servants, not slaves, and the trans-Atlantic associative bonds they had established or lost with Cortés's retinue deeply affected the course of their lives.¹⁴ Now an ocean away, they had difficulty proving that identity and status.

In this article, I consider the vulnerability of indigenous servants' lives in Castile and how they were labeled, configured, and protected by others associated with Hernán Cortés. More generally, I seek to bypass the strict juridical and terminological distinctions between a "slave" and a "servant" and investigate the lived experiences and connotations of servile dependency in trans-Atlantic settings. Hierarchical social bonds revolved around expectations of loyalty, service, and dependability between "family" members that included kin and non-kin members.¹⁵ Far from their homelands and having experienced serial dislocation, indigenous slaves and servants had no other choice than to form alliances, foster new kinship bonds, and rely on their masters for protection, sustenance, and some sort of stability.¹⁶ But these relations were contextual, interactive, and, in the cases of Juan, Francisco Manuel, and Pedro, subject to radical change. Once a rupture in expectations had occurred, these men felt they had no choice but to enter the legal system to navigate the cultural and legal distinctions between freedom and bondage. They found it necessary to engage with others who saw them differently from how they saw themselves. Litigants and deponents, some of whom had had intimate congress with one another, relied on a lexicon of descriptive terminology and characterizations, some stereotypical, others creative, to determine whether these men were in fact *indios* and what that construct meant vis-à-vis their status as free men or slaves. In these instances, the "politics" of identification implicated men directly or indirectly enmeshed in Cortés's web of sociopolitical relations.¹⁷

Prosopographical studies of conquerors show the deep connections established among different cohorts of Spanish men, some of them based on short-term ventures among *socios* (business partners), others involving the handling of estates, traveling across the Atlantic with children, or being in charge of the long-term care of illegitimate children, servants, and slaves.¹⁸ These larger *bandas*, or "groups," based on loyalty (and ferocious resistance to enemy bands) and other ties to the male patriarch then fostered economic and social networks in different Latin American and Castilian settings with important natural resources and laborers.¹⁹ Below the *socios*, or agents, inferior to Cortés in rank and status, were others who established professional allegiances. Some of these men were called *allegados* (close ser-

vants, relatives, or friends); others, *criados* (literally, “those raised in the home”), or servants.²⁰ Each had a particular “dependent” relationship with a master.²¹ Allegados were considered to be relatives, friends, or servants, generally close to the patron but not always present in a household setting.²² Extended family ties could include the next generation or be limited to short-term economic or legal relationships.²³

We know that there were tremendous gradations in the status and expectations of retainers, but we have yet to see how these relations played out in different contexts. In both Castile and America, criados could be Castilian, African, or indigenous Americans. In fact, the position of criado included an entire range of ties “too heterogeneous to constitute a unified or identifiable class as such.”²⁴ Criados could be given tremendous responsibilities, serving as managers (*mayordomos*) of estates or given power of attorney over property and slaves while the master was absent—or they could be seen as one notch above a slave.²⁵ While some criados were impoverished blood relatives hired on a contractual basis, others had once been slaves or orphans. Many attached themselves to a master or a family to gain permission from the House of Trade to cross the Atlantic.²⁶ Others were seen by their masters as disposable property. In the hierarchical world of high-ranking men like Cortés, criados were sometimes given as testamentary bequests to heirs.²⁷

The complex affinitive networks of criados also included lower-level servants and slaves who sought out new ties after experiencing deracination from relatives and their homeland.²⁸ Where indio servants and slaves fit into this hierarchical and mobile schema depended on the nobleman, his family situation, and the particular historical circumstances and context in which the indio lived. In principle, an indigenous servant had the right to choose the person for whom he or she would work. But, as we will see in the three stories of Juan, Francisco Manuel, and Pedro, they were given little choice in where they would live, whom they would serve, and what work they would perform. Like many other lower-level slaves and servants in Castile, they were often the objects of negotiation, whether as commodities with a fixed price, part of a business deal, or for someone in need of a guardian. They were necessary but expendable. They were protected but vulnerable. As members of households or bandas, indigenous servants and slaves could rely on large interconnected networks of cohorts and family alliances for confirmation of their status, economic stability, and patronage.

From the courtroom depositions of these three men we learn nothing about what duties they performed for the criados of Cortés.²⁹ They never said. But each account provides a sense of how the ties of loyalty, obligation, and respect between the noble lord and his retainers were tested

on one side of the ocean and another. They reveal how deponents might identify each litigant by tracing his “lineage of bondage” from one master to another, by using phrases like “in his company” to indicate servile, not slave, status; by detecting a brand on a face; or by accusing indigenous witnesses of being uncircumcised non-Christians.³⁰ Identifying the status of a litigant was not just legalistic jockeying to establish intended outcomes but was intricately related to the mechanisms of power within which the deponents and litigants operated. The level of uncertainty from one situation to the next could make Pedro’s, Francisco Manuel’s, and Juan’s status as free indios precarious despite time at court, marriage, and associations with prominent indigenous and Castilian men. But they would never have anticipated this when they set sail with their masters.

Pedro’s Story

Pedro had always been free, but like the naborías living in Seville and Mexico, he was attached to his master, Juan Garrido, in ways that made him seem more like a slave than a free man.³¹ Pedro had been serving Garrido “for quite some time,” as he put it, when Garrido convinced him to return with him to Spain in 1540.³² It might not have taken much convincing, for Garrido was no ordinary man. A renowned conqueror of African descent, his place of birth in Africa or Lisbon is unknown. We do know, however, that he was among the first Africans to arrive at Hispaniola around 1503 or 1504.³³ His military feats were many, and by 1519 the seasoned soldier had decided to follow Cortés to Mexico.³⁴ Throughout the upheavals and political struggles that Cortés would face, Garrido always remained faithful to the marquis.³⁵

But he was not always as steadfast with his servants. Exactly how many years Pedro had served Garrido was a question that witnesses—all manservants (*criados*) of the Marquis del Valle—failed to answer in the lawsuit Pedro initiated in 1544. Nor do we know Pedro’s exact place of origin, since he was associated with both “Mexico City” and the more generic “Mexico, in New Spain.”³⁶ Like many young boys, Pedro might have entered Juan Garrido’s service in the years immediately following the siege of Tenochtitlán, when Garrido held several positions in the city, including doorkeeper of the Cabildo of Mexico.³⁷ Pedro might also have come into contact with Garrido when the conqueror became involved in a short-lived mining venture with Alonso de Herrera to Michoacán.³⁸

After returning to Mexico City from a luckless expedition with Cortés to Baja California in 1535 (when Cortés brought back a handful of California Indians), Garrido dedicated himself to running his modest estate, which

relied on indigenous and African slave labor.³⁹ By then, Pedro had certainly been in Garrido's household for some time and may have held a supervisory position, as free indios often did. When Garrido learned that Cortés was making preparations to journey to Spain in 1540, he decided to go with him. Garrido had become preoccupied with gathering testimonies for his *probanza de servicios y méritos* (an account of services rendered to the king) and no doubt thought his physical presence at court would increase his chances of being remunerated financially, or with titles, for his military and other services. For the last time, Garrido placed himself in the service of the marquis, and the two aging men crossed the tempestuous Atlantic waters together.

Pedro was among the servants who traveled with Garrido and Cortés. Although certainly not the only indio in the entourage, he was one of the few free ones. It was a diverse group, replete with indigenous slaves, two *morisca* slaves of Cortés, and Africans. Traveling with the marquis were two of his sons, don Martín and don Luís. In a later deposition, Pedro remarked that the two boys and the two moriscas would undoubtedly recognize him and remember that he had been a part of the entourage that slowly made its way to Madrid from Seville.⁴⁰ Even once they had settled comfortably in Cortés's Madrid household, servants in the Cortés household referred to Pedro as being "in [Garrido's] company" (*en su compañía*), a turn of phrase that would not have been used had Pedro been a slave.⁴¹ Several witnesses even described Pedro as one of the servants (*criados*) of the Marquis del Valle, which in a larger sense he was, since Garrido was considered an allegado attached to the Cortés household. One deponent said that it was "common knowledge" (*comunmente reputado*) that Pedro was a free man.⁴² Others, however, saw him as a naboría, although they never explained why. Gonzalo Díaz, the man in charge of Cortés's horses, could not be certain that Pedro was not a slave. He had not known him in Mexico and could not even recall his name, but he assumed that because Garrido had other indio slaves with him in Madrid, Pedro was one of them.⁴³

Perceptions based on affinitive relations and social context could make all the difference in the world. Garrido himself was intimately familiar with the fine line between being *perceived* as free or as a slave. How many times, we have to wonder, did he need to explain that he was a free man, "black in color"?⁴⁴ His early history is unclear—we do not know if he or a family member had to procure his freedom—but he may have been one of a growing number of free blacks living in Seville in the late fifteenth century, some of whom had crossed the Atlantic. More than once he had worn down the soles of his boots marching in forlorn territory. With his own sweat he had gained a reputation as a formidable conqueror. Some would say that he had earned his status despite his color, but that because of his color he was never

awarded an *encomienda*.⁴⁵ But like many “soldier-conquerors,” Garrido had owned his fair share of indigenous and African slaves, and buying and selling human property was a way to pay off a debt or garner a profit. By early 1541 he had determined that it was time to sell Pedro. But according to eyewitness accounts, Garrido decided against selling Pedro in Madrid because the indigenous man was considered to be a member of the Cortés household, and the marquis had warned Garrido not to sell a free man. Although the New Laws of 1542, guaranteeing indios of the Spanish domains the right to petition for their freedom, had not yet been passed, the political climate in Madrid was beginning to shift. Cortés was in the middle of delicate negotiations at court and did not want any shadow cast over him, which may be why the 55-year-old marquis decided to testify on Pedro’s behalf three years later, in April 1544.⁴⁶ When the councilor asked if he knew Pedro and for how long, Cortés said he was aware that Juan Garrido had brought an indio with him from Mexico but could not recall his name. “I had always taken that indio to be a free man, and not a slave, and all those who knew him thought the same.”⁴⁷ Yes, he said, they had come on the same ship, and it was exactly four years to the month since they made the transatlantic voyage. Yes, his servants had warned him that Garrido intended to sell Pedro, and according to Cortés’s deposition, “he severely reprimanded him,” telling him he should not do such a thing.⁴⁸ Cortés also claimed that he did not know whether Garrido had sold the indio.

What had happened? Apparently, in early 1541 Garrido decided to return to Mexico, since it is likely that negotiations at court for a more generous reward had stalled.⁴⁹ As Garrido made the trek to Seville with Pedro and Antonia, a “black *morisca slave*” (one of Cortés’s, we are left to wonder?), the trio arrived in Almodóvar del Campo, in proximity to Ciudad Real. There Pedro’s life took another, radically different, turn. The man who had served as Pedro’s protector for years now sold him “in the countryside with no one around.” Pedro recalled that it was a desolate place called Corral de Caraques. There was no title, only a verbal affirmation between buyer and seller, and an exchange of money that commodified Pedro and made him and Antonia the property of a man named Hernando de Villarreal.⁵⁰ How difficult it would now be for Pedro to prove he had once been a free man in Mexico.

Within months, however, another exchange occurred, this time for 110 *ducados*, between Villarreal, who was on his way to America, and a new owner named Juan Sánchez Carrillo. At this point, in August 1541, Pedro filed a complaint before the Council of the Indies. He explained that he had come to Madrid with Garrido and that although Garrido “tried to sell him several times” there, too many people knew that he was free. But then later,

in a remote setting, he did sell him.⁵¹ His tale of woe must have made an impression on Juan de Villalobos, the prosecuting attorney, who apprised the king of the situation, because shortly thereafter the king issued a decree ordering Sánchez Carrillo to present Pedro at court within fifteen days or risk a fine of ten thousand *maravedís*.⁵² We know nothing of what happened to Pedro between then and 1544, when he initiated a formal lawsuit before the Council of the Indies. Sánchez Carrillo immediately claimed that Villarreal had sold Pedro to him in bad faith and that the previous owner (not Sánchez Carrillo) should pay the court costs. When court authorities approached Villarreal's wife about the matter, she protested loudly, saying that her husband "was somewhere in the Indies," and because the household income came from her dowry, she was not required to pay one maravedí to remunerate the current owner. Besides, she said, "not only could Sánchez Carrillo not produce a bill of sale, but Antonia had since had a child which is worth more than what Sánchez Carrillo paid when he bought her. It would be impossible to separate out the sale of Pedro from that of Antonia."⁵³ Perhaps in the midst of all the turmoil, Antonia and Pedro had had a child together, a child now seen by others as a commodity.

Pedro was no longer at the court when he was freed in absentia on 20 October 1544.⁵⁴ Garrido had long since returned to Mexico, and although the Council of Indies issued a formal reprimand against him for malice and requested that the Audiencia of Mexico seek justice against him, nothing ever happened. Indeed, Garrido may have died before he received the notification.

Through gestures and language, witnesses for plaintiff and defendant articulated their connotations of the constructs *esclavo*, *criado*, or *naboría* when categorizing Pedro. He was commonly taken to be free, and had been "in the company of" Garrido, working as a *criado* or *naboría* on both sides of the Atlantic. How he moved from servant to slave in the minds and actions of owners or witnesses was revelatory of the fluidity of circumstances and ongoing relationships of power that determined the ties between servant and master. Removed from the protective custody of Cortés' milieu, Garrido could exercise what he saw as his right to sell a man who had served him for years. It probably would not have occurred to him that Pedro's sale by verbal agreement in a remote area would ever lead to a lawsuit against Sánchez Carrillo: such was the power of paternalism. Garrido would soon cross the Atlantic and had washed his hands of any accountability toward Pedro. His years of service in Mexico and Castile meant little in the face of financial gain. But in a court of law, litigants and witnesses who knew Pedro—including Cortés—had a stake in supporting or not supporting Pedro's status as a free man. They could render these pli-

able cultural and legal constructs into a consonant legal narrative, giving them a different form and content. At risk was the future of one man's life.

Juan's Story

Juan did not come with Cortés to Spain, nor had he ever been associated with Cortés in any way in his native Mexico, but the two witnesses who helped him gain his freedom had.

In the proceedings of the lawsuit that Juan initiated before the House of Trade in 1542 is a fragment of a statement detailing some of the horrors he had recently experienced:

. . . [put a lock around my] throat and I thought they would not do that and I now realize that it is true. Yesterday he ordered me to go out and earn money and in the meantime placed me in the custody of a hemp maker [*espartero*]. He [then] went to the house of a smelter and arranged with him to make a lock for my throat and some chains for my feet and then he put me [to work] with the hemp maker to mix up the hemp mass. For this reason I implore to you, merciful lords, that you require them to treat me well or that you give me to a person whom I can serve who will treat me better, or give me a letter of freedom since there is a servant of the Marquis del Valle here who knew that my father and mother were not captives and [that] neither am I.⁵⁵

Juan had several problems. The first was that he had served several masters over the years on both sides of the Atlantic. In the 1520s he had worked for Juan del Olmo, a tailor, in Mexico City and had accompanied him to Spain.⁵⁶ He remained in Olmo's service for fourteen or fifteen years until his master's death. He then served Olmo's wife and mother but insisted that it was always as a free man. After that, he went to work for others, but he became alarmed when in 1541 Francisco de Acosta *purchased* him. This transformative act proved to be the beginning of a long nightmare for Juan. He tried in vain to request a copy of the will of Juan del Olmo and his wife, because he knew that it would state that he was a free man. The defense never complied with the mandate. Instead, Acosta presented a fabricated bill of sale stating that he had purchased Juan from a local druggist, a claim that Juan's legal representative vehemently denied. Nevertheless, the court admitted the bill of sale as evidence. At the time, no one seemed to notice that the document lacked a notary's signature.⁵⁷

The second problem was timing. The year Juan initiated a lawsuit was 1542; the New Laws would not go into effect until November. But because Juan was considered "poor" and a legal minor, he was granted a legal repre-

sentative for minors to represent him before the House of Trade, still overseen by three officials: the business administrator (*factor*), the accountant (*contador*), and the treasurer (*tesorero*).

Despite the obstacles, Juan decided to press forward by calling on an indigenous witness, a criado of the Marquis del Valle who had been acquainted with Juan in Mexico. If called to testify, this witness could provide a lifeline to a past when Juan had been considered as free. He could rescue Juan from the present.

The indigenous servant was named Martín. In 1542, twenty-eight years old, he served as an expert witness for Juan's defense. Not only was he well connected because of his skills as an interpreter in Castile, but he was also well versed in the legal system. He must have sympathized with Juan's predicament, since, seven years earlier, in 1536, he had initiated and won a lawsuit against his master, Gonzalo de Salazar, an infamous business administrator known for brutality toward his indigenous subjects and enmity toward Cortés. Once freed, Martín may have been one of several interpreters circulating at the itinerant Spanish court of the Council of the Indies who occasionally interviewed indigenous litigants to test their language skills.⁵⁸ Martín would have understood all too well how the careful selection and crafting of language could build a convincing narrative. On the day he testified on behalf of Juan, Martín chose not to identify himself as an interpreter; instead, he said he was a servant of the Marquis del Valle. While it is true that he was on the household payroll of Cortés around the years 1526 to 1528, his tenure in that position was short lived. Either he referred back to that period to bolster his credibility as a witness who had been in Mexico while Juan was still there, or he may have rejoined Cortés in Madrid when the marquis returned in August or September 1540.⁵⁹ Since Cortés had several lawsuits pending before the Council of the Indies, Martín's language skills might have been useful. In any case, Martín hoped that being associated with Cortés would impress the judges of the Casa when he testified in mid-1542.

Martín went on to explain that he had known Juan for more than ten years, beginning in Mexico. "I know the parents of Juan. They are from a village near Veracruz in New Spain and I saw them in Mexico City. They are free individuals."⁶⁰ His testimony (whether based on fact or fiction, since, as the defense pointed out, the timing was off) affirmed Juan's rights as a free man based on his parents' lineage. Next, Martín qualified Juan's service as a manservant. "This witness saw and knew Juan, indio in the city of Mexico [working] as a page for a gentleman whose name I cannot recall."⁶¹ At this point Martín mentioned his authority as an interpreter who would know such things because of the circles in which he circulated.

By emphasizing Juan's genealogy and his condition as a personal page, as he had done successfully in his own case, he hoped to undermine the argument being made by the defense that Juan had long been a slave of just war or exchanged by his parents as a slave through the practice known as *rescate*. Finally, Martín relied on the legal precedent established by his own litigation suit to put forward that he was aware that indio slaves were identified by an *R* (for *rescate*) or *G* (for *guerra*)—signs of the royal (and legal) brand—but that Juan's face had other letters engraved on it. Seven years earlier, Martín had confronted the same dilemma and had proved in 1536 that the brand on his cheek was illegal.⁶²

The second indio witness, Pedro, was also free, and around twenty years old. His association with Juan had begun more than twelve years earlier when Juan was still a child and living with his parents in Mexico City, “where they had a separate house.” It was there that they raised their son, he added.⁶³ Claiming to have lived independently of Spaniards or Nahua nobles would be an indication of free status and an elite upbringing, especially in the early colonial period. It also confirmed what the previous witness, Martín, had argued, that Juan was not a slave from birth or even a captive. Later, Juan began to serve a gentleman as a page, and “he treated him like a son.”⁶⁴ Like Martín, Pedro was familiar, probably intimately so, with the lexicon of servitude. He knew what to say that would distinguish Juan from other free servants by the kind of service he provided and the kind of benevolent and familial treatment he had received from his master. Then, too, the brand was a crucial symbol. Pedro iterated, “It has been said in this city [of Seville] that the indios who do not have the royal brand on the face are being declared free by the lords of the House of Trade.”⁶⁵

Juan's current master and defendant in the case, Acosta, also faced several problems. Following Juan's request, the Casa officials had asked Acosta to find the will of Pedro de Olmos and his wife (which Acosta said made it clear that Juan was a slave). It was nowhere to be found. Then there was the questionable bill of sale, and several sworn statements made by Acosta's supporters who argued that Juan had been sold as a slave more than once.⁶⁶ Without a clear paper trail, Acosta and his lawyer decided to pursue another course of action. Strategically, it made more sense to use the *tacha*, a legal device that literally meant “defect” and a strategy used to discredit witnesses for the opposing side. Acosta chose witnesses who could expose close connections or nepotism, reveal contradictory statements, and depict the character flaws of the two witnesses who spoke on behalf of Juan. Now it was Martín and Pedro's turn to be placed under the interrogatory microscope.

Acosta began by exposing the most blatant contradictions in their tes-

timonies: “One [witness] says that he had seen him [Juan] twelve years ago in Mexico when he has been in Spain for fifteen, and one says he met the family in Mexico City and the other says [in] Veracruz.”⁶⁷ But temporal inconsistencies were not enough to damage their credibility, and Juan’s parents could very well have been from Veracruz and later moved to Mexico City. Acosta had to disprove that Juan was from New Spain, and therefore, by his birthright, free. To do so, he asked the witnesses

. . . if they know that Juan is not from New Spain but from Guatemala or other parts and that he does not know the language of the Indians of New Spain. The witnesses [Martín and Pedro] know because they are indio interpreters from New Spain, they know the language of the indios from there [Guatemala], they have spoken many times with Juan, and if the witnesses know that [Juan’s] language is not that of New Spain.⁶⁸

To answer this question for the court, Acosta called on Diego de Vergara, a hatmaker, to testify on his behalf. Vergara admitted that he had only known Juan since the trial began, and he relied on his possession of two indio slaves, one from Yucatán and the other from Nicaragua (neither of the slaves ever testified) to bolster his credibility as a believable witness. Vergara stated that he had asked his slave from Yucatán about Juan, and “the one from Yucatán told me that the language Juan speaks is that of Yucatán, but from a land very far away, in the interior, whose language he recognized.”⁶⁹ Another perhaps more notable witness, Hernando Pizarro (who had returned to the Spanish court in 1539 to negotiate lucrative deals for the Pizarros) testified that he had traveled in many places in America, and he thought that “by the physiognomy of his face that Juan looked like he was from Pánuco.”⁷⁰ Underlying Acosta’s strategy was to have credible witnesses specify Juan’s place of origin as somewhere in the Viceroyalty of New Spain but from a place such as Guatemala, the Yucatán, or Pánuco, where the large-scale and for a time legitimate enslavement of indios as captives of just war had occurred. This would then negate the value of Martín and Pedro’s testimonies.

Acosta then proceeded to defame Pedro and Martín on the grounds that because they were indios they were inherently flawed and “Christians with no value (*nulos cristianos*).”⁷¹ To bolster this assertion, Acosta drew on what had already become one of the most sensitive and culturally lethal tactics of the day: to accuse someone of Judaizing practices. Some Castilians were unsure whether indios formed one of the lost tribes of Israel; there were those who believed that indios, like the Jews and the Moors,

were heretics. Acosta hoped this argument might strike a chord with the judges of the Casa, who were now beginning to scrutinize prospective passengers more closely to ensure that no *conversos* or *moriscos* (forced converts from Judaism or Islam, respectively) boarded ships for America. Acosta said, “Martín and Pedro are not Christians and they are circumcised like Jews, and if they are Christians, which I deny, they are *new* Christians, those [people whom] you cannot believe.”⁷² Witnesses were asked to report if they knew whether Pedro and Martín were circumcised following Jewish custom. The only testimony came secondhand from one of the indio slaves of the hatmaker, who claimed to have noticed at the public bath that Pedro and Martín were circumcised.⁷³

As Pedro Gómez, the legal representative for Juan, reviewed the testimonies, he annotated in the margins, “does not prove” (*no prueba*), meaning that he did not believe there was enough evidence in the statements to discredit Juan’s witnesses. He also did not believe that the defense had proved the condition of slavery in light of the fact that there was no title. Yet his closing remarks that “all men are, by their nature, born free, except for those who are proved to be slaves” did not strike a sympathetic chord with the judges, whose legal ruminations were absent from the court proceedings.⁷⁴ Despite the faulty (and most likely forged) paperwork, the three officials at the House of Trade responsible for rendering a decision declared in May 1542 that Acosta had proved his case and that Juan would henceforth remain a slave. Unfortunately for Juan, it was still mid-1542, and the Crown was still deliberating on how to eliminate illegal slavery in Castile. The three authorities at the Casa exercised their power as they saw fit.⁷⁵

By October 1544, when the Council of the Indies decided to review Juan’s appeal, the political climate in Castile had shifted dramatically. Council member Iñigo López de Mondragón found large holes in the prosecution’s arguments about “Juan, indio criado.”⁷⁶ He issued a statement he called “injustices of the indio” (*agravios del indio*), where he argued that Juan’s indigenous witnesses Martín and Pedro were reliable and that the “proof of discredit” (*probanza de tachas*) proved nothing except to slander all indios. Several of Acosta’s witnesses were “suspicious and biased” and failed to answer the questions. The hatmaker, he posited, should be charged with perjury. The will confirming Juan’s slave status had never appeared, and the so-called bill of sale from the druggist to Acosta should never have been accepted by the court; it lacked a notary’s signature. On 26 February 1545, the Council declared Juan to be a free man and condemned Acosta to perpetual silence on the matter.⁷⁷

Francisco Manuel

Francisco Manuel was still a child when he journeyed to Spain as part of a retinue of servants in service to Hernán Cortés's criados.⁷⁸ Eight years later and now a man, he testified on behalf of Martín, the former slave of Gonzalo de Salazar whom we encountered as a witness for Juan in the previous case study. In 1536, when Francisco Manuel appeared before the tribunal of the Casa, he identified his place of origin as Santiago, "which is near Mexico [City] in New Spain."⁷⁹ Before the arrival of the Spaniards, the municipality of Santiago was called Totolmaloyan, located near the present-day seaside settlement of Manzanillo. By 1527 Cortés saw an opportunity to establish a safe harbor and site to build the vessels that would carry men and horses on future explorations of the South Sea.⁸⁰ Whether it was when Cortés dispatched his cousin, Alvaro Saavedra de Cédron, to attack Manzanillo by sea or shortly thereafter that Francisco Manuel was captured or donated to Spaniards and marched to the economic and political hub of Tenochtitlán/Mexico City, we shall never know. If it is true that he met Juan, the man in the previous story, before traveling to Spain with Cortés's 1528 entourage, the window of opportunity would have been very small. The two men certainly coincided at the Spanish court when both served as witnesses on behalf of Martín, who petitioned for his freedom before the Council of the Indies in 1536.⁸¹ At that time, the king still received a number of indigenous envoys who thought it best to conduct their business at the Spanish court.⁸² When the trial began, Francisco Manuel became acquainted with another key witness on Martín's behalf, a nobleman named Hernando de Tapía (known in Otomí as Conín).⁸³

But the year was now 1552, and the privileged connections Francisco Manuel had once enjoyed had vanished. The cluster of indigenous nobles at court—contacts from another time and place—was gone. He was alone and now found himself fighting to reclaim his freedom. In the litigation suit he initiated, he said he had been brought to Spain as a child some eighteen years before, with "certain criados" of Cortés.⁸⁴ These criados could have been indigenous nobles, since Spanish-generated documents refer to indigenous nobles (except for the highest nobles, who were called "don") in such a relational manner to Spaniards. As historian José Carlos de la Puente Luna points out, the indigenous nobles (like Spaniards) usually traveled with an entourage of servants and slaves, and the label *criado* in this context referred to a temporary economic or social dependency rather than to a permanent servile position.⁸⁵

Whether, over the decades, Francisco Manuel remained connected to one of Cortés's associates is difficult to ascertain.⁸⁶ Somewhere along the

way, Francisco had become a skilled carpenter. One witness said he had seen him in Seville serving Nicolás López, a *vecino* of Guatemala, who had been with Cortés on the difficult expedition to Honduras in 1523.⁸⁷ After Cortés's death in 1547, Francisco Manuel "agreed to serve with pay" Catalina Gil, the wife of Francisco de Aguilar and mother of Sebastian de Aguilar.⁸⁸ Several men of different branches of the Aguilar family had served Cortés on different conquering ventures in Mexico, so Francisco Manuel's labor may have been Cortés's way of acknowledging and remunerating that service.⁸⁹

Time and again, indigenous men and women who crossed the Atlantic Ocean risked having others attribute a new and different status to them. It was so easy to slip from being a boy servant of other servants to becoming a trained and salaried carpenter to being owned by another. The transference to a new master could result in a kind of social alienation despite volition, will, and history. It could mean a loss of connections with others who could affirm one's true status.⁹⁰ The continual social and cultural ruptures—from crossing the Atlantic to serving multiple masters—could disassociate Francisco Manuel from his true identity as a free man. His current "owner," Sebastian de Aguilar, a merchant from the Mediterranean town of Almería, knew little about Francisco's former life as a free carpenter. He saw him as an expendable slave and treated him as such. How could Francisco Manuel explain the complexities of his service to a group associated with Cortés that did not fit into any prescriptive "box" about servitude? After years of association with prominent households and prominent individuals, he was not accustomed to such treatment. Even Aguilar's mother, Catalina Gil, had treated him fairly, although we will never know if she was being duplicitous or genuine when she convinced him to go with her son to Almería by telling him that for every ducado of merchandise sold he would earn a small percentage.⁹¹ As Francisco would soon realize, the coastal town of Almería was far from the hub of imperial politics, and Sebastian de Aguilar was on friendly terms with the judges of the municipal court.

Once it became clear that Aguilar was going to sell him, Francisco decided he should escape to Madrid, where he would find more legal support. There he initiated a petition before the Council of Indies on 21 May 1552, and the court determined that his intentions were just. Then the politics of identification began. Aguilar began to argue—and he was coaching witnesses to say the same—that not only was Francisco Manuel a fugitive but he was a slave from the Portuguese territories: a dangerous proposition if proved, since it would condemn Francisco to perpetual bondage. His master had presented the court with a bill of sale from 1549 identifying a man named Manuel as "an Indian slave, *mulatto* (brown) in color," who was

sold to Aguilar as a slave of “just war and not [of] peace.” The document failed to mention a place of origin and it was not certain if the “Manuel” mentioned was the litigant.⁹² For some, his coloration meant he could just as easily be an “Indian slave” from Pegu in Burma (Myanmar), as one witness contended, or Brazil, or India.⁹³

None of the indigenous nobles and servants who had once circulated at the imperial court in 1536 were there to speak on Francisco Manuel’s behalf. However, a number of prominent Spanish witnesses, several of them the sons of conquerors who had accompanied Cortés, were. They could not contest the validity of the bill of sale, but they could describe the past deeds of their fathers, which now filled the folios of chronicles, reports, and official reviews of office. Each witness was asked if they knew that the young Francisco had been brought to Spain from New Spain by certain criados of the Marquis del Valle. Antonio Boteller could at least address the matter, albeit indirectly. A property-owning permanent resident of Mexico City, Boteller had gained notoriety after developing a way to amalgamate silver with mercury. He remembered clearly when the marquis left for Spain the first time and his return to Mexico as a married man with the *marquesa*. In response to the question about Francisco’s place of origin, Boteller asserted, “Francisco’s physiognomy resembles that of the people of Colima,” and although he [has since] lost any fluency in his native tongue, Francisco Manuel could [still] understand certain words.” However, what convinced Boteller (and perhaps the court) of Francisco’s authenticity was his ability to describe the journey from Colima to the island of San Juan de Ulúa (Veracruz), where he would have embarked for Spain.⁹⁴ “I asked Francisco indio certain questions and [about] signs of the province of Colima and [about] the route he had taken before embarking at the port of San Juan de Ulúa,” Boteller said.⁹⁵ This may have been the detail that tipped the scales of justice in Francisco Manuel’s favor. He was declared to be free from servitude on 6 May 1553.⁹⁶

Conclusions

What did these three men have in common? All came from Mexico, and all were free and young when they traveled to Spain. Each had contacts with other indigenous men, some of them nobles who resided at the court in Spain. Eventually all were considered by someone other than their original master to be property and an alienable commodity. Of course each of the three men still embodied his own social and cultural history of the past (both before and after the Spaniards arrived in Mexico) but years later would find it necessary to rely on the memories of others to verify the truth of their status.

Unlike in the diasporas of other slaves, it was not the sea that formed an impassable gulf between past and present, because each of the three young men lived for a time in Castile as a free man. But they also lived in a milieu where (some) others saw them as a potential commodity with a price tag, and others saw them as not quite free to choose a master or the place where they would live. In Castile, despite a higher-class upbringing or treatment by certain Spaniards as criados, they were seen merely as indios and natural slaves. Once a price was put on them, it transformed the linkage with the social community that had previously existed for them.²⁷ How fragile or razor thin the bonds of loyalty could be, how nonreciprocal they could become. The descent into bondage could happen in an instant: in a forlorn pasture, on a wagon cart journey to Almería, or because a testament could not be found. There were always weak links in the chain of relations of dependency if someone wanted to exploit them. Then it was incumbent on the “slave” to make judges believe otherwise, despite what the laws said.

They were all young men, even boys, when they came to Spain. The world of servants, pages, and managers was their notion of family, and they were all associated directly or indirectly with Cortés. The first man, Pedro, served the black conquistador Garrido, who had served Cortés faithfully for nearly two decades. Perhaps this betrayal was the worst: facing financial constraints and eager to return to Mexico, Garrido threw away years of loyalty and unspoken understandings when he sold Pedro in a remote corral. Ultimately, Pedro was expendable because he was an indio. He was worth money. Juan had served a Castilian tailor in Mexico, but he had no proof of that service once a member of the family he had served for years sold him into slavery. Francisco Manuel formed a part of a retinue of servants in service to Cortés’s criados. Somehow he remained connected to Cortés until his death in 1547. In his mind, the marquis was his link to freedom at another time and another place, but that changed quickly in Cortés’s absence. Once again, one member of a family had a different perception from that of the others, and no one stopped Francisco Manuel from being sold illegally.

Small gestures between people can tell big stories. The connections between servants or “dependents” and masters involved a complex layering of multiple bonds, some of them financial, others involving loyalty, family ties, or memories. The legal records reveal how laws were applied, but they also disclose how important perception, circumstance, and, in some cases, luck were. In these three instances, and in similar litigation suits involving indio slaves in Castile, contextual relationships of power often defined terms like *criado* or *esclavo*, not the other way around. The key to understanding some of the more insidious expressions of servitude during the early colo-

nial period can be found in those moments when ruptures in expectations occurred and individuals were thus reconstituted by others as slaves of just war or ransom or because they were a certain color. How indios were being perceived in Castile and elsewhere—by physiognomy, by the type of brand, by documents that told a particular kind of “truth,” or by the manner by which they associated with their superiors thus raises important questions about the precarious situation of other free(d) individuals facing the threat of (re)enslavement.

The trajectories of these men’s lives show the linkages between physical dislocation and relocation, the temporal and spatial incongruities experienced by hundreds of other indigenous servants and slaves, the importance of connections to other worlds, and the power a vast ocean had in reconfiguring indio identities. Contextualizing the mobility of and fragile intimacies between members of bandas and households is key to understanding the initial fifty years following the Spanish invasion. The natal soil of Extremadura or the harsh and often unspectacular rigors of conquest produced lifelong ties, but relations of criados with a powerful man could shift and change, depending on the circumstances. As a patriarch in the broadest sense of the word, Cortés was responsible for anyone living in his household. Juan Garrido may have wanted to act on his own to sell an indio servant illegally but did not do so because Cortés did not wish it to be so. Even though that servant, Pedro, lived in Cortés’s household in Madrid, the marquis could not remember his name—he was that insignificant. But for Pedro, the marquis was central to his story. For the others, he was a linkage to a past evoked in new ways in a legal context. All three men, in different ways, thought that by referencing Cortés, a man who embodied the complexities of the 1520s, they could *remain* associated with that banda, that man’s vanishing power, that man’s history. It was a cry for help, and they hoped the king and the members of the Council of the Indies would listen. They did.

Notes

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¹ Archivo General de Indias (hereafter AGI), Seville, Spain, “Contratación,” 4675B, 172v; Francisco López de Gómara, *Cortés: The Life of the Conqueror by His Secretary*, trans. Lesley Byrd Simpson (Berkeley, CA, 1966), 390; Juan

- Miralles Ostos, *Hernán Cortés, inventor de México* (Barcelona, 2001), 463. Using López de Gómara's chronicle is not without its problems, as Cristián Roa-de-la-Carrera has shown. Cristián Roa-de-la-Carrera, *Histories of Infamy: Francisco López de Gómara and the Ethics of Spanish Imperialism*, trans. Scott Sessions (Boulder, CO, 2005).
- 2 Howard F. Cline, "Hernando Cortés and the Aztec Indians in Spain," *Quarterly Journal of the Library of Congress* 26 (1969): 84–85; Charles Gibson, *Tlaxcala in the Sixteenth Century* (New Haven, CT, 1952), 164–65; Carina Lee Johnson, *Cultural Hierarchy in Sixteenth-Century Europe: The Ottomans and Aztecs* (Cambridge, 2011), 84–85; Camilla Townsend, *Malintzin's Choices: An Indian Woman in the Conquest of Mexico* (Albuquerque, NM, 2006), 171, 188–89; Miralles Ostos, *Hernán Cortés*, 188.
 - 3 López de Gómara, *Cortés*, 389.
 - 4 Townsend, *Malintzin's Choices*, 193.
 - 5 Ibid.; Robert Himmerich y Valencia, *The Encomenderos of New Spain, 1521–1555* (Austin, TX, 1991), 146–47.
 - 6 Miralles Ostos, *Hernán Cortés*, 540; José Luis Martínez, *Hernán Cortés* (Mexico City, 1990).
 - 7 López de Gómara, *Cortés*, 407; Mariano Cuevas, ed., *Cartas y otros documentos de Hernán Cortés* (Seville, 1915), 257–72; Elisabeth Balancy, "Francisco Nuñez-Hernán Cortés: Réflexion autour d'une rupture, 1544–1546," *Caravelle: Cahiers du Monde Hispanique et Luso-Brésilien* 94 (2010): 187–219.
 - 8 José Luis Martínez, ed., *Documentos cortesianos*, vol. 4, 1533–1548 (Mexico City, 1992), 352–82.
 - 9 Miralles Ostos, *Hernán Cortés*, 572–73.
 - 10 López de Gómara, *Cortés*, 408; Salvador de Madariaga, *Hernán Cortés* (Buenos Aires, 1941).
 - 11 Of particular relevance to understanding the complexities of this period and to move away from the "myth of exceptional men" as the main protagonists of conquest history, see Matthew Restall, *Seven Myths of the Spanish Conquest* (Oxford, 2003), chap. 1; on placing lesser-known subjects at the center of conquest history, see Matthew Restall, "The New Conquest History," *History Compass* 10, no. 2 (2012): 151–60, esp. 155–56.
 - 12 Laura Matthew and Michel Oudijk, eds., *Indian Conquistadores: Indigenous Allies in the Conquest of Mesoamerica* (Norman, OK, 2007).
 - 13 Alejandro Cañeque, "De parientes, criados, y gracias: Cultura del don y poder en el México colonial (siglos XVI–XVII)," *Historica* 29, no. 1 (2005): 7–42.
 - 14 Nancy E. van Deusen, *Global Indios: The Indigenous Struggle for Justice in Sixteenth-Century Spain* (Durham, NC, 2015).
 - 15 Myriam Cottias, Alessandro Stella, and Bernard Vincent, "Introduction," in *Esclavage et dépendances serviles: Histoire comparée*, ed. Myriam Cottias, Alessandro Stella, and Bernard Vincent (Paris, 2006), 10–11.
 - 16 Jane Mangan, *Transatlantic Obligations: Legal and Cultural Constructions of Family in Conquest-Era Peru and Spain* (Oxford, forthcoming).
 - 17 Rogers Brubaker and Frederick Cooper, "Beyond Identity," *Theory and Society* 29 (2000): 1–47. On *indio* as a legal and conceptual category in Castile and colonial Spanish America, see van Deusen, *Global Indios*, introduction; on constituting difference as a process, see Joanne Rappaport, *The Disappearing Mestizo: Configuring Difference in the Colonial New Kingdom of Granada* (Dur-

- ham, NC, 2014), 1–19. On the importance of color in determining the status of slavery in sixteenth-century Castile, see Nancy E. van Deusen, “Seeing *Indios* in Sixteenth-Century Castile,” *William and Mary Quarterly* 69, no. 2 (2012): 205–34. According to David Tavárez, bureaucratic “thinking” (and particularly Inquisitorial “thinking”) figured into discussions of the identification of “Indians”; see David Tavárez, “Legally Indian: Inquisitorial Readings of Indigenous Identity in New Spain,” in *Imperial Subjects: Race and Identity in Colonial Latin America*, ed. Andrew B. Fischer and Matthew D. O’Hara (Durham, NC, 2009), 81–100. On the arbitrariness of labeling South and East Asian people by color and by category (as “chinos”) for purposes of maintaining them as slaves, see Tatiana Seijas, *Asian Slaves in Colonial Mexico: From Chinos to Indians* (Cambridge, 2014).
- 18 James Lockhart, *The Men of Cajamarca: A Social and Biographical Study of the First Conquerors of Peru* (Austin, TX, 1972), 70–76, 142–45; Mario Góngora, *Los grupos de conquistadores en Tierra Firme (1509–1530): Fisonomía histórico-social de un tipo de conquista* (Santiago, 1962); José Ignacio Avellaneda, *The Conquerors of the New Kingdom of Granada* (Albuquerque, NM, 1995); Restall, *Seven Myths*, chap. 3; John F. Schwaller with Helen Nader, *The First Letter from New Spain: The Lost Petition of Cortés and His Company, June 20, 1519* (Austin, TX, 2014), chap. 6.
- 19 James Lockhart, “Trunk Lines and Feeder Lines,” in *Transatlantic Encounters: Europeans and Andeans in the Sixteenth Century*, ed. Kenneth Andrien and Rolena Adorno (Berkeley, CA, 1991), 90–120; Ida Altman, *Emigrants and Society: Extremadura and America in the Sixteenth Century* (Berkeley, CA, 1989), 2.
- 20 Aurelia Martín Cásares, “Domestic Service in Spain: Legislation, Gender, and Social Practice,” in *Domestic Service and the Formation of European Identity: Understanding the Globalization of Domestic Work, Sixteenth through Twenty-First Centuries*, ed. Antoinette Fauve-Chamoux (Bern, 2004), 194.
- 21 Mario Góngora, “Urban Social Stratification in Colonial Chile,” *Hispanic American Historical Review* 5 (1975): 445; Gregorio Salinero, *Maîtres, domestiques, et esclaves du Siècle d’or: Les relations de dépendance à Trujillo au XVI^e siècle* (Madrid, 2006).
- 22 *Diccionario de autoridades*, vol. 1 (1726–37; Madrid, 1990), s.v. “allegados.”
- 23 On intimate ties between servants and slaves, see “Carta de ahorramiento,” 22/III/1539, Los Reyes, Library of Congress, Harkness Collection, box 2, doc. 399, 28or–v, which granted freedom to the child to be born of Juana, their *morisca* slave. The father of the child, Francisco Bosos, was their manservant (*criado*), and Juana was his wife.
- 24 Altman, *Emigrants and Society*, 71.
- 25 For an example of a *criado* in charge of Francisco Pizarro’s business transactions in early colonial Peru, see “Carta de finiquito,” 2/VI/1539, Library of Congress, Harkness Collection, box 2, doc. 411, 291v–92v.
- 26 Auke Pieter Jacobs, “Legal and Illegal Emigration from Seville, 1550–1650,” in “To Make America”: *European Emigration in the Early Modern Period*, ed. Ida Altman and James Horn (Berkeley, CA, 1991), 69, 79.
- 27 Altman, *Emigrants and Society*, 70–72.
- 28 Nancy van Deusen, “The Intimacies of Bondage: Female Indigenous Servants and Slaves and Their Spanish Masters, 1492–1555,” *Journal of Women’s History* 24 (2012): 24–32.

- 29 In this article I use the term *courtroom* metaphorically. In actuality there was no such room at the Casa or the Council of the Indies.
- 30 For further discussion of indio slaves' "lineage of bondage," see van Deusen, *Global Indios*, chaps. 2 and 4.
- 31 The term *naboría* probably had antecedents to the term *servidumbre* in medieval Castilian law, whereby a laborer (*siervo*), either male or female, was awarded by contractual agreement by one lord to another to work for life with remuneration of some sort. The master could not sell or remove the servant from his or her place of origin. On the ambiguous status of indigenous naborías in sixteenth-century Castile, see van Deusen, *Global Indios*, introduction and chap. 4. On the differences between *siervos*, *criados*, and *esclavos* and how historical context, not laws, often defines relationships of dependency and bondage, see Alessandro Stella, "Travail et dépendances au Moyen Age: Une problématique," in *Le Travail: Recherches historiques*, ed. Jacques Annequin, Évelyne Geny, and Élisabeth Smadja (Besançon, France, 1999), 227–44; Martín Cásares, "Domestic Service in Spain," 194, 196.
- 32 "Lic. Villalobos orders authorities in Ciudad Real to interview Pedro," 1544, AGI, Justicia 1173, n. 5, 11.
- 33 Matthew Restall, "Black Conquistadors: Armed Africans in Early Spanish America," *The Americas* 57 (2000): 176.
- 34 Ricardo E. Alegria, *Juan Garrido: El conquistador negro en las Antillas, Florida, México, y California* (San Juan, PR, 2004), 33–41.
- 35 Ibid., 127.
- 36 "Preguntas del Interrogatorio," 1544, AGI, Justicia 1173, n. 5, im. (image) 23.
- 37 Alegria, *Juan Garrido*, 79–81; Peter Gerhard, "A Black Conquistador in Mexico," *Hispanic American Historical Review* 58 (1978): 455.
- 38 Within a year, however, his mining ventures had failed, and he was forced to sell his indigenous slaves and mining equipment to pay off his substantial debt. Alegria, *Juan Garrido*, 99; Gerhard, "Black Conquistador," 457.
- 39 Agustín Millares Carlo and José Ignacio Mantecón Navasal, eds., *Índice y abstractos de los protocolos del Archivo de Notárias de México, D.F. 2 vols.* (Mexico City, 1945), 1:149 ("Obligación," 3/VI/1527, Tenochtitlán), 1:274 ("Poder tras-paso," 20/IV/1528, Tenochtitlán), 1:347 ("Deudo," 12/X/1528, Tenochtitlán), 1:349 ("Deudo," 13/X/1528). See also Gerhard, "Black Conquistador," 458.
- 40 "Interview with Pedro, indio," 13/XI/1543, AGI, Justicia 1173, n. 5, im. 13.
- 41 The term "in his company/compañía" may also have referred to Pedro's being a part of Garrido's band, or partnership with another leader, consisting of men—many of them free agents and retainers—and supplies. On its common usage during military operations of the Spanish conquest, see Lockhart, *Men of Cajamarca*, 67, 70–71.
- 42 The legal term *common knowledge* meant that several witnesses could verify that something was true.
- 43 "Statement, Gonzalo Díaz," AGI, Justicia 1173, n. 5, ims. 30–31.
- 44 Alegria, *Juan Garrido*, 139 ("Probanza").
- 45 Gerhard, "Black Conquistador," 455–56.
- 46 "Testimony, Hernán Cortés," 18/IV/1544, AGI, Justicia 1173, n. 5, ims. 32–33.
- 47 Ibid., im. 33.
- 48 Ibid.
- 49 Alegria, *Juan Garrido*, 113.

- 50 "Interview with Pedro, indio," 13/XI/1543, AGI, Justicia 1173, n. 5, im. 13.
- 51 "Real cédula al Corregidor de Ciudad Real," 30/X/1541, Madrid, AGI, Indiferente 423, l. 20, 51r (im. 117).
- 52 "Real cédula . . . que ponga en libertad un indio," Madrid, 18/VIII/1541, AGI, Indiferente 423, l. 20, 29v–30 (ims. 74–75); "Real cédula al Corregidor de Ciudad Real," Madrid, 30/X/1541, AGI, Indiferente 423, l. 20, 51r–v, (ims. 117–18).
- 53 "Protesta, Catalina Fernández," 4/VII/1544, Justicia 1173, n. 5, im. 35.
- 54 "Respuesta a una Petición, Sánchez Carrillo," 1/X/1548, Justicia 1173, n. 5, im. 95.
- 55 "Interview with Juan, indio," AGI, Justicia 825, n. 3, r. 2, im. 23.
- 56 Himmerich y Valencia, *Encomenderos*, 206–7.
- 57 In the interrogatory, Acosta claimed that he had bought Juan two months earlier, in December 1541 when Juan was around eighteen years of age; see Justicia 825, n. 3, r. 2, ims. 26–28, 39. Juan vehemently denied ever having served the druggist. Acosta could easily have falsified the document or used a bill of sale that referenced another slave. On slave owners falsifying documents in Castile, see van Deusen, *Global Indios*, chap. 5.
- 58 For evidence of a Spanish interpreter (Melchor de Valdés) accompanying three nobles (Francisco, Martín, and Pedro) back to Mexico, see "Pago de pasaje a Melchor de Valdés," 16/XII/1535, Madrid, AGI, Indiferente 1962, l. 4, 20r–v; "Passenger License," AGI, Contratación 5536, l. 4, 28v.
- 59 Miralles Ostos, *Hernán Cortés*, 559.
- 60 "Deposition, Martín, indio," 23/II/1542, AGI, Justicia 825, n. 3, r. 2. im. 42.
- 61 Ibid.
- 62 Ibid., ims. 41–42.
- 63 "Deposition, Pedro indio," 23/II/1542, AGI, Justicia 825, n. 3, r. 2, ims. 43–44.
- 64 Ibid., im. 44.
- 65 Ibid.
- 66 The litigant Juan stated that the witness, Catalina Esteban, had committed perjury in her statement about his sale to a man named Almazán and that she should be penalized. Juan's lawyer requested that Esteban locate the sale document that said she had sold Juan to Almazán, even if it was a forgery; "Petition, Juan *indio*," 2/III/1542, AGI, Justicia 825, n. 3, r. 2, im. 46, 73.
- 67 "Statement, Francisco de Acosta," 18/IV/1542, AGI, Justicia 825, n. 3, r. 2, im. 62.
- 68 "Preguntas del Interrogatorio de Tachas," 27/IV/1542, AGI, Justicia 825, n. 3, r. 2, im. 67.
- 69 "Declaration, Diego de Vergara," 9/V/1542, Justicia 825, n. 3, r. 2, im. 69.
- 70 "Testimony, Hernando Pizarro," 18/IV/1542, Justicia 825, n. 3, r. 2, im. 72; van Deusen, "Seeing *Indios*," 219–21; Joanne Rappaport, "Así lo paresce por su aspecto?: Physiognomy and the Construction of Difference in Colonial Bogotá," *Hispanic American Historical Review* 91, no. 4 (2011): 601–31.
- 71 "Preguntas del Interrogatorio de Tachas," 27/IV/1542, Justicia 825, n. 3, r. 2, im. 68.
- 72 "Testimony, Francisco de Acosta," 18/IV/1542, Justicia 825, n. 3, r. 2, im. 62.
- 73 "Declaration, Diego de Vergara," 9/V/1542, Justicia 825, n. 3, r. 2, im. 69.
- 74 "Respuesta de Pedro Gómez defensor de Juan," 23/V/1542, Justicia 825, n. 3, r. 2, im. 76. Only rarely do we learn how judges reached their decisions.
- 75 For a discussion of Casa politics with regard to indigenous slavery in the 1530s and 1540s, see van Deusen, *Global Indios*, chap. 3.

- 76 “Iñigo López en nombre de Juan indio criado,” 11/VII/1542, Valladolid, AGI, Justicia 825, n. 3, r. 2, im. 6.
- 77 “Sentencia,” 26/II/1545, Justicia 825, n. 3, r. 2, ims. 95, 109.
- 78 AGI, Justicia 1022, n. 1, r. 2 (1553).
- 79 “Testimony, Francisco Manuel,” 25/X/1536, AGI, Justicia 1007, n. 1, r. 1, 20r-v.
- 80 “Testimony, Licenciate Çepeda,” February 1552, AGI 1007, n. 1, r. 1, 2da pieza, t. 2.
- 81 “Testimony, Fernando de Tapia,” 14/X/1536, AGI, Justicia 1007, n. 1, r. 1, 20r.
- 82 By 1533, the son of Moctezuma and four other nobles in positions of authority (*principales*) had been in Spain for six or seven months and were awarded positions at the court of Charles V; see 24/VII/1533, Indiferente 737, n. 29, 2r; and “Carta Acordada del Consejo de Indias a Diego de la Haya,” 31/XI/1534, Madrid, AGI Indiferente General 1961, l. 3, 193. The Tlaxcalan delegation was headed by Don Diego Maxixcatzin (Johnson, *Cultural Hierarchy*, 88). On Andean indigenous interpreters serving as solicitors at the Spanish court, see José Carlos de la Puente, “The Many Tongues of the King: Indigenous Language Interpreters and the Making of the Spanish Empire,” *Colonial Latin American Review* 23, no. 2 (2014): 143–70.
- 83 He was the son of Andrés de Tapía, a noble Otomí who helped the Spanish establish control over Querétero in 1531. Hernando de Tapía had been at the court since 1528 when he traveled with Cortés; in 1536 he was twenty years old when he testified on Martín’s behalf. He would have been considered a valuable witness. When he returned to Mexico in 1537 he served as an official interpreter for the High Court of Mexico (Real Audiencia). See Real Cédula . . . para Hernando de Tapía,” AGI Indiferente General 1962, l. 5, 105r; Cline, “Hernando Cortés,” 85; and Ethelia Ruiz Medrano, *Reshaping New Spain: Government and Private Interests in the Colonial Bureaucracy, 1531–1550*, trans. Julia Constantino and Pauline Marmasse (Boulder, CO, 2006), 167. Another group of indigenous nobles returned to Mexico in 1538. “Licencia, Luis Vázquez de Pedraza,” 1/IV/1538, AGI, Pasajeros, l. 2, E. 483o.
- 84 “Opening Statement, Francisco Manuel,” Justicia 1022, n. 1, r. 2, 1r. This would place the date of his arrival in Spain at 1534, which may be incorrect.
- 85 José Carlos de la Puente Luna, “Into the Heart of the Empire: Indian Journeys to the Hapsburg Royal Court,” PhD diss., Texas Christian University, 2010, 60, 104, n. 204. The term *criado*, in this context, implied more of a relationship of client to patron, or one of employee to employer, than it did a fixed low status. Altman, *Emigrants and Society*, 70, 261–62.
- 86 Cristóbal Maldonado (“Testimony,” Justicia 1022, n. 1, r. 2, pieza 2, t. 4) stated that he had met Francisco Manuel about eight years before (around 1544) in Seville. At the time, Francisco Manuel was serving (as a free man) Nicolás López. On López accompanying Cortés to Honduras, see Himmerich y Valencia, *Encomenderos*, 184. Maldonado may have been the son of Álvaro Maldonado (from his second marriage), who accompanied Cortés from Cuba to Veracruz in 1518 (*ibid.*, 187).
- 87 “Testimony, Cristóbal Maldonado,” AGI, Justicia 1022, n. 1, r. 2, pieza 2, t. 4; Himmerich y Valencia, *Encomenderos*, 184–85.
- 88 “Ejecutoría del pleito del Sebastian Aguilar,” 6/V/1553, AGI, Patronato 282, n. 1, r. 146.
- 89 Himmerich y Valencia, *Encomenderos*, 114–15.

- 90 Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, 1982), 45–46; Stephanie E. Smallwood, *Saltwater Slavery: A Middle Passage from Africa to American Diaspora* (Cambridge, MA, 2008), 59–60; van Deusen, *Global Indios*, chap. 2.
- 91 “Testimony, Juan de la Cruz,” February 1552, AGI, Justicia 1022, n. 1, r. 2, 2da pieça, 2r.
- 92 “Carta de venta,” 13/VI/1549, AGI, Justicia 1022, n. 1, r. 2, 40r.
- 93 “Testimony, Urban de Rueda,” February 1552, AGI, Justicia 1022, n. 1, r. 2, 2da pieça, witness no. 7; van Deusen, “Seeing *Indios*,” 219–30.
- 94 “Testimony, Antonio Boteller,” February 1552, AGI, Justicia 1022, n. 1, r. 2, 2da pieza, iv, 2v.
- 95 Ibid., rv.
- 96 “Opening Statement,” AGI, Justicia 1022, n. 1, r. 2, 1r; “Real Provisión,” 6/V/1553, Indiferente General 424, l. 22, 499v; “Ejecutoría del pleito del Sebastián Aguilar,” 6/V/1553, Patronato 282, n. 1, r. 146. Aguilar never complied with the Council’s order to appear in Madrid to testify. “Emplazamiento [Real Cédula] a Sebastián de Aguilar,” 31/V/1555, Madrid, Indiferente General 424, l. 22, 414r.
- 97 Smallwood, *Saltwater Slavery*, 52.