

# Conditional Clemency after the *Golpe de Melo* of 1854: Constitutionalism and Tradition in Early Republican Colombia<sup>✉</sup>

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**Abstract:** This article examines *indultos* after the *Golpe de Melo* of 1854. While the government hoped that these acts of clemency would erase all traces of the rebellion, a flood of appeals for *indultos* ensured that the post-war reckoning went on longer than the war itself. Drawing on archival and published material documenting this phenomenon, the article documents post-war politics in New Granada. The tension between popular ideals concerning pardonable behavior and the dispassionate constitutionalism promoted by the government documents the limits of the early republican project.

**Keywords:** *Colombia, politics, law, civil war (Thesaurus); indultos, constitutionalism (Author's).*

## Clemencia condicional después del Golpe de Melo de 1854: constitucionalismo y tradición en la joven república de Colombia

**Resumen:** Este artículo examina los indultos después del Golpe de Melo de 1854. Mientras que el gobierno tuvo la esperanza que estos actos de clemencia borrarían todos los trazos de la rebelión, una oleada de peticiones de indulto afirmó que las consideraciones de la posguerra iban a durar más que la guerra misma. Basado en el estudio de documentos de archivos y de material publicado sobre este fenómeno, el artículo documenta la política de la posguerra en Nueva Granada. La tensión entre los ideales populares con respecto al comportamiento perdonable y el constitucionalismo desapasionado promovido por el gobierno, demuestra los límites de los inicios del proyecto republicano.

**Palabras clave:** *Colombia, política, ley, guerra civil (Thesaurus); indultos, constitucionalismo (Autor).*

## Clemência Condicional após o Golpe de Melo de 1854: constitucionalismo e tradição no início da Colômbia Republicana

**Resumo:** Este artigo examina indultos após o Golpe de Melo de 1854. Enquanto o governo esperava que esses atos de clemência apagassem todos os vestígios da rebelião, uma avalanche de apelos de indulto garantiu que as consequências da pós-guerra durassem mais do que a própria guerra. Com base em material arquivístico e publicado que registra esse fenômeno, este artigo documenta a política pós-guerra na Nova Granada. A tensão entre os ideais populares sobre comportamentos perdoáveis e o indiferente constitucionalismo promovido pelo governo demonstra os limites do projeto republicano inicial.

**Palavras-chave:** *Colômbia (Thesaurus); constitucionalismo, guerra civil, lei, perdão, política (Autor).*

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## Introduction

Of the series of civil wars that marked political life in early republican Colombia during its incarnation as New Granada, the *Golpe de Melo* of 1854 is generally considered in isolation. In part this is because this war, which began in the streets of Bogotá on April 17 with a popular uprising involving the capital's artisans and ended on December 4 of that same year, offers a relatively straightforward narrative of popular rebellion. But this isolated treatment also reflects a historiographical tendency to emphasize artisan participation in the rebellion as a key moment in Colombia's early labor history, or analyzes the war within specific regional contexts. The conflict is rarely linked to the preceding wars of the early republic; the subsequent Constitution of 1858, which remade the country as the Granadine Confederation; or the War of 1860, which ushered in a quarter century of extreme federalism.

In contrast, in *Las palabras de la guerra. Las guerras narradas del siglo XIX*, María Teresa Uribe de Hincapié and Liliana López analyze Colombia's first three civil wars, or more precisely, the relevant post-war periods.<sup>1</sup> Though their examination of public memory based on published sources analyzes these wars in sequence rather than synthetically, considering all three poses questions about politics and nation-making in the early republic. It also presents the welcome challenge of employing historical methods to extend their analysis of narratives by incorporating *indulto* decrees and related petitions as important components of that narrative. Individual petitions are a rich resource for examining how ordinary people understood their rights and responsibilities in the mercurial world of the early republic, and provide a means of forging a better understanding of popular politics during the New Granadan era.<sup>2</sup> In considering the reckoning that followed 1854, Uribe de Hincapié and López Lopera find little of the thirst for public vengeance that marked the War of the Supremes (1839-1842) or the inclination toward quick reconciliation that followed the War of 1851. Instead, the post-war effort of 1855 was aimed at erasure; public amnesia as nation-building. But reading the flood of petitions from *indultados* and their families countered this effort and prolonged the public post-war reckoning. The clash over the relevant criteria for receiving an *indulto* undermined the government's constitutional project and contributed to the unmaking of New Granada as ongoing Liberal factionalism facilitated the election of Mariano Ospina Rodríguez and the Civil War of 1860, thus ushering in the Federal era.<sup>3</sup>

1 María Teresa Uribe de Hincapié and Liliana López Lopera, *Las palabras de la guerra. Las guerras narradas del siglo XIX* (Medellín: Instituto de Estudios Políticos, 2003), 469-473. See also Fernán E. González, *Para leer la política. Ensayos de historia política colombiana* (Bogotá: CINEP, 1997), vol. 2; and Fernán E. González, "A propósito de 'Las palabras de la guerra'. Los comienzos conflictivos de la construcción del Estado nación y las guerras civiles." *Estudios Políticos* n.º 25 (2004): 37-70.

2 For a survey of works on this topic, though none of them consider Colombia, see Lara Putnam, Sarah C. Chambers, and Sueann Caulfield, eds., *Honor, Status, and Law in Modern Latin America* (Durham: Duke University Press, 2005).

3 On familism, see Sarah C. Chambers, "The Paternal Obligation to Provide: Political Familialism in Early-Nineteenth Century Chile." *The American Historical Review* 117, n.º 4 (2012): 1123-1148, doi: dx.doi.org/10.1093/ahr/117.4.1123; and Nicolás Alejandro González Quintero, "Nación, Constitución y familia en *La Bandera Tricolor*, 1826-27," in *Disfraz y pluma de todos. Opinión pública y cultura política, siglos XVIII y XIX*, edited by Francisco A. Ortega Martínez and Alexander Chaparro Silva (Bogotá: Universidad Nacional de Colombia, 2012), 421-446.

## 1. Republican Pardons

During the colonial era, the power of the monarch had blurred the distinction between grants of clemency as personal acts of grace invoking divine mercy and tactical pardons employed as mechanisms for quelling rebellions. Then, the practice endured through the Wars of Independence.<sup>4</sup> In both Gran Colombia (1821-1831) and New Granada the practice continued, a common if contradictory feature of the constitutional era across the Atlantic World.<sup>5</sup> During the presidency of Francisco Paula de Santander (1832-1837) there was little hint that *indultos* would become so prominent in the decades that followed, though the legal structures supporting their use were put into place with the draft of the country's first legal code that was then signed by Santander's successor José Ignacio de Márquez in 1837.<sup>6</sup> This continuity was not without its critics. When Congress debated a new *indulto* for political offenses, *El Noticioso* in 1835 weighed in against the decree:

“Un indulto tan estenso, tan escandaloso i tan ajeno de las circunstancias actuales, empezaría por disolver la presente administración, porque desde el presidente de la república hasta los jefes políticos patriotas deberían abandonar sus destinos, puesto que el indulto es incompatible con la existencia de magistrados, gobernadores, consejeros, etc.”<sup>7</sup>

At the same time, the public expected *indultos*, as demonstrated by Josefa Antonia Lizarralde de Arjona in a pamphlet published in 1837. Addressing the “Honorable Senadores y Representantes,” Lizarralde requested an *indulto* for her son Alejo who had already served four years in prison in Panama, citing the precedent set by the Spanish crown and numerous contemporary examples.<sup>8</sup> The possibility that the presidential transition from Santander to José Ignacio de

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4 José Luis de Las Heras, “Indultos concedidos por la Cámara de Castilla en tiempos de los Austrias.” *Studia Historica. Historia Moderna* I, n.º 3 (1983): 115-142; 12. Antonio Caballero y Góngora, and Carlos III, “Edicto para manifestar al publico el indulto general, concedido por nuestro Catholico Monarca el Señor Don Carlos III a todos los comprehendidos en las revoluciones acaecidas en el año pasado de mil setecientos ochenta y uno” (Bogotá: s/e., 1782), <<http://www.banrepultural.org/node/92593>>; Simón Bolívar, “Decreto de Simón Bolívar sobre el indulto para las fuerzas realistas” (Valencia: Imprenta del Gobierno, 1813), <<http://www.cervantesvirtual.com/nd/ark:/59851/bmchm631>>; and Congreso de Cúcuta, “Decreto de indulto, el Congreso General de Colombia” (Bogotá: Imprenta de Espinosa, 1821); on the Crown's 1817 indulto see Maria Teresa Uribe de Hincapié and Jesús María Álvarez, *Raíces del poder regional: el caso antioqueño* (Medellín: Editorial Universidad de Antioquia, 1998), annex 7.3. See also Natalie Davis, *Fiction in the Archives. Pardon Tales and Their Tellers in Sixteenth-Century France* (Stanford: Stanford University Press, 1990); Helen Lacey, *The Royal Pardon: Access to Mercy in Fourteenth-Century England* (York: York Medieval Press, 2009); and K. J. Kesselring, *Mercy and Authority in the Tudor State* (Cambridge: Cambridge University Press, 2003).

5 Leslie Sebba, “The Pardoning Power: A World Survey.” *Journal of Criminal Law and Criminology* 68, n.º 1 (1977): 83-121, doi: dx.doi.org/10.2307/1142480. See also Brian Loveman and Elizabeth Lira, *Leyes de reconciliación en Chile. Amnistías, indultos y reparaciones, 1819-1999. Fuentes para la historia de la República*, vol. 17 (Santiago: Ediciones de la Dirección de Bibliotecas, Archivos y Museos, 2001).

6 Gilberto Enrique Parada García, *Ley formal y ley material. La ley penal y su codificación en la construcción del Estado colombiano, 1819-1837* (Ibagué: Universidad del Tolima, 2014), 179-184. See Arturo A. Quijano, *Ensayo sobre la evolución del derecho penal en Colombia* (Bogotá: Imprenta de Medardo Rivas, 1898), 105-126, and Marie-Laure Basilien-Gainche, “La constitucionalidad de contienda: la promoción jurídica de la guerra civil en la Colombia del siglo XIX.” *Historia Crítica* n.º 35 (2008): 130-149.

7 Anonymous, “¡Alerta Patriotas verdaderos i firmes apoyo de la Libertad!”, *El Noticioso*, March 31, 1835.

8 Josefa Antonia Lizarralde de Arjona, *Honorable Senadores i Representantes* (Bogotá: Imprenta de Antonio Mora Pelaez, 1837).

Márquez had ushered in an era of peaceful electoral politics was foreclosed by the War of the Supremes. Though the initial uprising in Pasto was a minor series of protests against a law closing minor convents, in 1840 José María Obando sparked a national war. Facing fresh accusation that he was behind the assassination of Antonio José de Sucre in 1830, and wary of a proffered *indulto* guaranteeing him a fair trial, Obando declared himself the Supreme Director of the War in Pasto, setting off a national war.<sup>9</sup> For several months in 1840 it seemed the government might fall, but by mid-1841 it regained the upper hand, and Obando's forces were defeated by an army under the command of Tomás C. de Mosquera. Obando fled into exile, in part because of Mosquera's practice of executing captured officers.<sup>10</sup>

The government responded to the threat of national dissolution with high profile executions and reluctantly granted *indultos* to some of the condemned.<sup>11</sup> Early in 1842 President Herrán explained the logic behind one proposal:

“Os presentó la República unida y tranquila, mas no debo ocultaros que aún es delicada la situación en que se halla. Tenéis que llenar una gran misión: afianzar el reinado de la paz, asegurar para siempre la reconciliación de nuestros hermanos, y creo que la llenaréis concediendo cuanto sea compatible con la seguridad pública en favor de tantos granadinos que sufren las penosas consecuencias de la revolución [...] Si por lo pasado es mi opinión que haya indulgencia, no pienso así para lo futuro. Os pido, pues leyes severísimas y fórmulas abreviadas para reprimir y castigar con prontitud y rigor el delito y aun el conato de rebelión.”<sup>12</sup>

An anonymous pamphlet, by “*Un amigo personal y político del Jeneral Herran,*” offered a pessimistic appraisal of the proposal:

“La guerra ha terminado y ahora es que viene bien un acto espléndido de clemencia. Es como si dijera: el imperio de la ley se ha restablecido, y ahora es que conviene no cumplir la ley [...] ¿el

9 See Francisco U. Zuluaga R., *José María Obando. De soldado realista a caudillo republicano* (Bogotá: Biblioteca Banco Popular, 1983); Manuel Arjona, *José María Obando y el asesinato del Jeneral Sucre* (Bogotá: Imprenta de J.A. Cualla, 1844); Uribe de Hincapié and López Lopera, *Las Palabras de la Guerra*, 165-185; Francisco U. Zuluaga R., “La Guerra de los Supremos en el suroccidente de la Nueva Granada,” in *Las guerras civiles desde 1830 y su proyección en el siglo XX* (Bogotá: Museo Nacional de Colombia, 1998), 17-36; and Rebecca Earle, “The War of the Supremes: Border Conflict, Religious Crusade or Simply Politics by Other Means?” in Rebecca Earle, *Rumours of Wars: Civil Conflict in Nineteenth-Century Latin America* (London: Institute of Latin American Studies, 2000), 119-134.

10 Eugenio Gutiérrez Cely, “Mosquera frente a Obando: pretexto, el asesinato de Sucre.” *Credencial Historia* n.º 31 (1992): s/p; José María Obando, *Apuntamientos para la historia* (Bogotá: Biblioteca Popular de Cultura Colombiana, 1945).

11 Juan de Dios de Aranzazu, “Decreto del Poder Ejecutivo negando la conmutación de la pena de muerte impuesta a Vicente Vanegas reo del delito de traición,” and José M. Cardenas, *et. al.*, “Solicitud hecha por los individuos insultados que se mencionan,” *Gaceta de la Nueva Granada*, August 8, 1841 (Trimestre 39, 517); and Juan de Dios de Aranzazu, “Decretos del Poder Ejecutivo: Negando la conmutación de la pena de muerte impuesta a Pablo Vegal por el delito de traición i rebelión,” *Gaceta de la Nueva Granada*, August 22, 1841 (Trimestre 39, 519). See also Gustavo Arboleda, *Historia contemporánea de Colombia. Desde la disolución de la Antigua República de ese nombre hasta la época presente* (Bogotá: Banco Central, 1990), early chapters in vol. 3. Uribe de Hincapié and López Lopera, *Las palabras de la guerra*, 95-98, annex 4, 493-5; and Joshua M. Rosenthal, “The *Indultados* of Tesuca: Criminal Rebellion and Judicial Reckoning during the War of the Supremes.” *Anuario Colombiano de Historia Social y de la Cultura* 39, n.º 2 (2012): 131-156.

12 Jesús María Henao and Gerardo Arrubla, *Historia de Colombia para la enseñanza secundaria* (Bogotá: Librería colombiana, 1920), 503.

mismo Jeneral Herra no concedió à Obando y a todos los rebeldes de Timbio una plena amnistía en enero del año de 40? ¿No aseguró à la nacion, que este acto de beneficencia produciría los mas felices resultados?<sup>13</sup>

Despite such censure, the use of *indultos* endured through the passage of the Constitution of 1843; the liberal reforms of mid-century; the formal organization of the Conservative and Liberal parties; and the split of the latter into the elite-led Golgota and Draconian factions. Draconians were less radical in their politics than Golgotas but, with staunch support from artisans in the eastern highlands and from Afro-Colombians in Cauca and the Caribbean, they proved capable of radical action.<sup>14</sup> During the presidential election of 1849 when neither Liberal faction nor the Conservatives won a majority in the first round of voting, artisans packed the congressional galleries in Bogotá, offering vociferous support for or, according to some accounts, threats in favor of the Draconian candidate José Hilario López.<sup>15</sup> López was elected. An *indulto* followed that allowed Obando to return to New Granada where he served first as governor of Cartagena and then as congressional representative of Bogotá.

The War of 1851, led by Conservative planters from the Cauca Valley, who were aggrieved over the final abolition of slavery, was brief.<sup>16</sup> It was ended with relative ease and was not seen as a fundamental challenge to the republic. The post-war reckoning had little of the vitriol of the War of the Supremes, in part because of the zeal shown by Cauca's Afro-Colombian population in taking up arms against these former slave owners, which posed a greater threat to social order than the rebellion. The war neither slowed the pace of reform, nor ended Liberal factionalism. In 1853 Golgotas in Congress succeeded in ratifying a new constitution and Obando was elected president as a Draconian.

## 2. The *Golpe de Melo*

The rising class tension that was articulated through party factionalism turned into open confrontations in the streets of Bogotá and then exploded under the leadership of General José María

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13 Anonymous, *Breve refutación del sistema de indulgencia por lo pasado y severidad inexorable para lo futuro, que el Presidente de la República, Jeneral Pedro Alcántara Herrán, propone al Congreso en su mensaje extraordinario de 1o. de marzo de éste año* (Medellín: Manuel Antonio Balcazar, 1842). See also Eduardo Posada and Pedro María Ibáñez, *Vida de Herrán, Biblioteca de Historia Nacional, III* (Bogotá: Imprenta Nacional, 1903), 96-98.

14 William Marion Gibson, *The Constitutions of Colombia* (Durham: Duke University Press, 1948), 194-202; David Bushnell, *The Making of Modern Colombia. A Nation in Spite of Itself* (Berkeley: University of California Press, 1993), 101-139; Helen Delpar, *Red Against Blue. The Liberal Party in Colombian Politics 1863-1899* (Tuscaloosa: University of Alabama Press, 1981), 1-13.

15 Delpar, *Red Against Blue*, 6. On this and artisans' societies, see David Sowell, *The Early Colombian Labor Movement. Artisans and Politics in Bogotá, 1832-1919* (Philadelphia: Temple University Press, 1992), 54-100. See also Eduardo Posada-Carbó, "New Granada and the European Revolutions of 1848," in *The European Revolutions of 1848 and the Americas*, edited by Guy Thomson (London: Institute of Advanced Study, 2002), 217-240.

16 Uribe de Hincapié and López Lopera, *Las palabras de la guerra*, 311-317. On the War of 1851, see James E. Sanders, *Contentious Republican. Popular Politics, Race, and Class in Nineteenth-Century Colombia* (Durham/London: Duke University Press, 2004).

Melo on the morning of April 17, 1854.<sup>17</sup> Whether Melo, the commander of the Bogotá garrison, rebelled in order to avoid prosecution after he was accused of complicity in the murder of Corporal Pedro Ramón Quiroz, or in response to congressional plans to reduce the size of the standing army, or in emulation of the European revolutions of 1848, or due to some combination of these factors is still unclear. The uprising enjoyed widespread support among the artisans of Bogotá, many of whom also served in National Guard units and were members of democratic societies. Cali also emerged as a center of rebellion, and there were uprisings and pronouncements of solidarity in other parts of the country as well.

Obando declined the invitation to lead a provisional government, though not with sufficient alacrity to deter subsequent accusations that he had encouraged or even planned the uprising. With Melo in control of Bogotá, the members of Congress who escaped from the capital gathered in Ibagué where, after some disorganization, Vice-President Obaldia led a “Constitutional” government of *Golgotas* and Conservatives. Generals López, Mosquera, and Pedro Herran led the military effort. The war was relatively short. The Melistas won only a single significant military victory at Zipaquirá. López’s forces took control of Cali peacefully in November and an army entered Bogotá in triumph on December 4.

A congressional commission had prepared charges against Obando during the war and he was tried twice. In one trial, remarkably, he was found innocent of the crime of failing to fulfill his office. In the second case, he was found guilty of “*traición y rebelión*,” and sentenced to twelve years of exile and fined one-eighth of his wealth.<sup>18</sup> This verdict was overturned on appeal and Obando retired to Pasto shortly thereafter. The case against Melo was clearer. He was found guilty of rebellion in civil court and sentenced to eight years of exile and the forfeiture of all of his property. The accusation concerning Corporal Quiroz still stood, so he was excluded from receiving an *indulto* as these decrees did not apply to common crimes. Free on bond, Melo accepted the sentence of exile and fled before he could be tried for murder.<sup>19</sup> The trials of Obando and the prosecution of Melo were exceptional because of their notoriety, but they were nothing out of the ordinary as legal processes against accused rebels. For two years the national government, and some provincial governments, worked to hold all rebels legally accountable, but formal trials were rare. Generally, the government sought to circumvent individual trials with decrees of *indulto*. In the sort of irony that typified public life in New Granada, these decrees extended the post-war reckoning as they encouraged further petitions and appeals.

17 See Sergio Guerra Vilaboy, *Los artesanos en la revolución latinoamericana, Colombia (1849-1854)* (Bogotá: Universidad Central, 2000); Francisco Gutiérrez Sanín, *Curso y discurso del movimiento plebeyo 1849/1854* (Bogotá: El Áncora Editores, 1995); Fabio Zambrano Pantoja, “El golpe de Melo de 1854,” and Alonso Valencia Llano, “La revolución de Melo en las provincias del Cauca,” in *Las guerras civiles desde 1830 y su proyección en el siglo XX* (Bogotá: Museo Nacional de Colombia, 2001), 59-72 y 79-89. See also Víctor Zuluaga Gómez, *Territorio, Religión y Guerra. Cauca y Antioquia, 1850-1870* (Pereira: Hoyos Editores/Universidad Tecnológica de Pereira, 2009).

18 Salvador Camacho Roldán, *Causa de responsabilidad contra el ciudadano presidente de la república i los señores secretarios del despacho* (Bogotá: Imprenta del Neo-granadino, 1855), 6-7; Suprema Corte de la Nación, “Sentencia de primera instancia en la causa por traición i rebelión seguida al expresidente de la República, Ciudadano Jeneral José María Obando,” in *Gaceta Oficial*, June 30, 1855, 937-945; and Andrés Aguilar, *El Ciudadano Jeneral José María Obando* (Bogotá: Imprenta de Francisco Torres Amaya, 1855).

19 Uribe de Hincapié and López Lopera, *Las palabras de la guerra*, 467; and Pedro Gutiérrez Lee, “Resolucion sobre una solicitud de José María Melo,” *Gaceta Oficial*, August 27, 1855, 1009.

*Indultos* had been issued during the war when both sides used them to tempt enemy soldiers to desert.<sup>20</sup> But the decrees that came after the fighting was over were more significant. The first followed the entry of Constitutionalist forces into Cali. While there was not much fighting in Cauca, Melistas had controlled the city for several months and tensions between Afro-Colombian Draconians and the Conservative elite, echoes of 1851, had run high. López took control of the city peacefully, in part because his status as a popular Draconian was taken as a sign that a rapprochement would follow. Instead, he treated prominent Melistas harshly, issuing *indultos* that carried lengthy sentences of exile.<sup>21</sup>

The reckoning which took place in Bogotá two months later followed suit. Contemporary accounts and historical studies agree that somewhere between two hundred and four hundred Melistas were rounded up on the night of December 4 and marched off to exile in Panama before dawn the next day.<sup>22</sup> Published lists confirm that 341 accused Melistas from Bogotá were forced to accept sentences of three or four years of military service in Panama as a condition of their *indulto*.<sup>23</sup> The attempt to cleanse the taint of rebellion and circumvent a flood of trials simultaneously failed. In part this was because national and provincial officials continued to compile lists of suspected rebels and *indultados* throughout 1855. By September, 1,949 people had been named in such lists: 1,094 from in or around Bogotá, 636 from Cauca, 168 from Santander, and 51 from the rest of the country.<sup>24</sup> More than half of those named were declared innocent or granted unconditional pardons. The rest were denied clemency or, more frequently, offered *indultos* that carried sentences of provincial exile, often combined with military service (see Table 1).

At first, decrees of *indulto* were presented as part of a triumphant restoration. Obaldia, still the acting executive, began his address to Congress on February 1, 1855 by saying: “La República se salvará:’ fueron las últimas palabras de mi Mensaje de 22 de setiembre de 1854, al memorable Congreso de Ibagué; i no habían transcurrido dos meses i medio, cuando los defensores de la causa constitucional, radiantes de gloria, me abrían las puertas de la capital para que dirijese pacífica-

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20 Melo issued a decree from Facatativá on May 28, 1854, “Decreto de Indulto,” in Biblioteca Nacional de Colombia (BNC), Bogotá-Colombia, Fondo *Anselmo Pineda* 1002, Pieza 34; for a petition for an *indulto* for criminal acts committed before April 17<sup>th</sup> offered to those who fought against Melo, see “Petición de Alférez José Antonio Mera,” Túquerres, February-March 1855, in Archivo General de la Nación (AGN), Bogotá-Colombia, Sección República, Fondo *Gobernaciones Varias: SR.47*, leg. 192, ff. 629-632; and “Petición de Maria Antonia Otero de Lopez para Pio López,” Neiva, June 1855, in AGN, República, *Gobernaciones Varias: SR.47*, leg. 192, ff. 27-48.

21 Gobierno provincial de Buenaventura, “Espulsos República de Nueva Granada,” November 25, 1854 reprinted in *Gaceta Oficial*, January 1, 1855, 395.

22 See Sowell, *The Early Colombian*, 75.

23 José de Obaldía, “Decreto concediendo indulto condicional a varios individuos,” *Gaceta Oficial*, December 21, 1854, 373-4; Baldía, “Decreto concediendo indulto a varios individuos,” *Gaceta Oficial*, January 5, 1855, 397; Obaldía, “Decreto concediendo indulto a varios individuos bajo la condición de servir en el Ejército,” *Gaceta Oficial*, January 15, 1855, 409; and a list of 45 names recommended as recipients of an *indulto* with the condition of four years in Panama in correspondence from E. Briceño in Bogotá, January 8, 1855, in AGN, Sección República, Fondo *Gobernaciones: SR.46*, Subfondo Gobernaciones. Bogotá: SR.46,71, leg. 34, f. 899.

24 Using voting totals from the national elections of 1856, these numbers indicate that at least 4% of the politically active population of Bogotá, where 29,927 votes were cast, and 6% of Cauca, where 9,930 votes were cast, were involved. David Bushnell, “Voter Participation in the Colombian Election of 1856.” *Hispanic American Historical Review* 51, n° 2 (1971): 240, doi: dx.doi.org/10.2307/2512474

mente los destinos de Nueva Granada.”<sup>25</sup> For many, such pronouncements rang hollow. Though the death penalty had been abolished for political crimes in 1849, for residents of Bogotá, exile to Panama was a death sentence.<sup>26</sup> The official assertion that such sentences had been accepted by the accused rang hollow, in part because anyone who rejected the terms of this *indulto* would be transported to Panama for their trial.<sup>27</sup>

**Table 1.** *Indulto* Conditions, 1854-September 1855

Result	Length in Years						
	< 1	1	2	3	4	5-8	12-16
Provincial Exile	79	76	63	29	28		
Exile in Panama		8	29	17	3		
Military Service (probably in Panama)				80	261		
International Exile		6	18	6		9	21

**Source:** Compiled from 34 lists or decrees of *indulto* compiled between November 1854 and September 1855; 32 published in the *Gaceta Oficial*, one in *El Reportorio. Periódico Oficial de la Provincia de Bogota*, and one in general correspondence from E. Briceño, January 8, 1855. AGN, Sección República, Fondo *Gobernaciones: SR.46*, Subfondo *Gobernaciones*. Bogotá: SR.46,71, leg. 34, f. 899.

Early in 1855 rumors spread through the capital that prisoners had been executed on the road to Panama, accompanied by lists of the dead; an echo of the government’s published lists.<sup>28</sup> The poem *San Bartolomé en 1855*, written by the well-known literary figure Lorenzo M. Lleras while he was held in the prison of that same name, also demonstrates that exile to the isthmus was understood as a death sentence:

“Mas, no finjas, no finjas, Obaldía,/Que la hija del pueblo al pueblo mate:/ Si es que manda la lei, la lei se acate; /I si no manda, escusa la ironía. /Cuando pregonas tú, que perdonas, /¿Por qué amarrados, entre soldados, /De los vencidos los desvalidos, /Por centenares, de sus hogares/ A tierra ajena parten, en pena/ De ese delito no comprobado, / I que indultado dices que está? /I si hai quien, inocente, rechace tu clemencia, /¿Por qué, contra las leyes, tras de su muerte vá? /¿Protejes su inocencia privándole de amigos, /De pruebas, de testigos, i de su Juez acá? (4)[...]

No basta, no, la muerte preparada,/De fiebre i hambre, en la desierta arena,/ Ó en el raudal del ancho Magdalena/ Por balsa aleve, incógnita, llevada; (6)/ Ni que asesino, por el camino, /O en

25 José de Obaldía, *Mensaje que el vicepresidente de la república, encargado del poder ejecutivo dirige al congreso en sus sesiones ordinarias de 1855* (Bogotá: Imprenta del Neo-granadino, 1856), 3.

26 Héctor Elías Hernández Velasco, *La Pena de muerte en Colombia, 1821-1910* (Bucaramanga: Sic Editorial, 2007), 6.

27 Rufino Azuero and Emeterio Heredia both chose trials in Panama rather than *indultos*. See official correspondence from January 16, 1854, in AGN, República, *Gobernaciones: SR.46*, *Gobernaciones*. Bogotá: SR.46,71, leg. 34, f. 976.

28 See notes in general correspondence concerning an anonymous pamphlet, “Una Noticia Alarmanta,” E. Briceño, January 23, 1855 in AGN, República, *Gobernaciones: SR.46*, *Gobernaciones*. Bogotá: SR.46,71, leg. 34, ff. 1003-1005.



el poblado, desatentado/ Su daga vibre, i el pueblo libre/ El valle hermoso que el espumoso/  
Cáuca serpea, diezmado sea,/ I tinto el Cáuca con sangre suya, /Rápido huya hasta su fin; [...]<sup>29</sup>

The government, meanwhile, continued to publish lists of *indultados*, using the *Gaceta Oficial* as a tool for demonstrating the workings of a dispassionate legal culture. Though historically, governmental reliance on *indultos* was engendered by a regime's weak position vis-à-vis rebellion; in the European tradition, pardons were ritualized as grants of mercy invoking divine grace in order to reify a ruler's authority. New Granadan governments, and Obaldía's in particular, eschewed such charismatic displays in order to emphasize the constitutional basis for clemency. In fact, the charges against Obando prepared by a congressional commission were published in October 1854 as *Causa de responsabilidad contra el ciudadano presidente*.<sup>30</sup>

Such efforts had no discernable impact on the public at large, in part because the presentation of a rational post-war legal reckoning was undermined by the state's limited capacity. This was evident in the inability of officials to track the accused and the *indultados*. Notably, none of the lists of *indultados* that were published were numbered. In February 1855, Secretary of State Pastor Ospina could only estimate that these decrees applied to thousands of individuals.<sup>31</sup> He wrote that as many as 500 prisoners awaited trial in Bogotá with more in other cities or at large who might receive *indultos*. No other figures were published. From mid-December 1854 through February 1855, the Gazette published lists generated by the national government.<sup>32</sup> Then, in response to a query from the governor of Cundinamarca about whether his recommendations were approved, Obaldía empowered provincial governors to grant *indultos*, though Bogotá maintained oversight.<sup>33</sup> The change reflected the regime's flagging will to manage the post-war process, rather than the sense that the task had been accomplished.

Perhaps another reason to decentralize the power of *indulto*, as Bogotá had done with various colonial taxes a few years earlier, was the continuing criticism of the practice. In January an anonymous essay credited to "Unos Jovenes," in the short-lived paper, *Ultima Campanada* attacked *indultos*, "[...] los prisioneros no tienen derecho a ninguna indulgencia, ni al asilo en las naciones extranjeras," though the author, or authors, allowed that subalterns might be pardoned.<sup>34</sup> Such

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29 Lorenzo María Lleras, *San Bartolomé en 1855, con notas aclaratorias* (Bogotá: Imprenta del Neo-granadino, 1855), 4-5. In later notes, Lleras cited letters from Panama naming the dead, 12. See also Sowell, *The Early Colombian*, 103-105, 204. For an official response, see Obaldía, *Mensaje que el vicepresidente*, 11-12. On New Granada's limited prisons, see Ricardo D. Salvatore and Carlos Aguirre, eds., *The Birth of the Penitentiary in Latin America. Essays on Criminology, Prison Reform, and Social Control, 1830-1940* (Austin: University of Texas Press, 1996).

30 Salvador Camacho Roldán, *Causa de responsabilidad contra el ciudadano presidente de la república i los señores secretarios del Gobierno i de Guerra* (Lima: Imprenta de Comercio, 1855).

31 Pastor Ospina, *Exposición del secretario de estado del despacho de gobierno de la Nueva Granada al congreso constitucional de 1855* (Bogotá: Imprenta del Neo-granadino, 1855), 32-33.

32 See Obaldía, "Decreto concediendo indulto a varios de los individuos que han cometido delitos contra la Constitución o contra la tranquilidad i el orden público," *Gaceta Oficial*, December 10, 1854, 1 [The first issue of the *Gaceta Oficial* after the Constitutionalist triumph of December 4, 1854 was treated as the beginning of a new serial. Subsequent issues returned to the old sequence of volume and page numbers]. See also the decrees cited in note 23.

33 Obaldía, "Decreto sobre indulto por delitos políticos," *Gaceta Oficial*, March 1, 1855, 560.

34 "Unos Jovenes," in *La Ultima Campanada*, 1 December 28, 1854, BN, *Anselmo Pineda* 1002, Pieza 61.

condemnations were not confined to the free-wheeling press, as demonstrated in the correspondence about Raimundo Grillo's appeal. Grillo had worked provisioning Melo's forces, though he had neither participated in the events of April 17 nor taken up arms against the government and, he claimed, had only dealt with cattle that had already been seized. This, he asserted, allowed him to seek an *indulto* with complete confidence.<sup>35</sup> Fiscal F. E. Álvarez broke with the neutral tone of official correspondence to condemn Grillo's appeal and the overall use of *indultos* in the justice system. He argued that the laws encouraged miscreants to commit greater crimes in order to qualify for *indultos*. This, he argued, undermined public morals and created an atmosphere of impunity. If things went on in this fashion, he explained, the History of New Granada would be written by groups of bandits claiming to represent political parties.<sup>36</sup> Álvarez was not simply voicing his own frustrations. When Obaldia granted Joaquín Posada, the publisher of the satirical *El Alacrán*, an *indulto* that same month, Álvarez resigned in protest.<sup>37</sup>

As governors took up the task of deciding which accused rebels merited clemency, *indultos* were granted with less stringent terms than those set by the national government.<sup>38</sup> Bogotá maintained final say and rejected at least one provincial *indulto*, overruling a Popayan decree sentencing the priest Manuel María Alaix to a two-year exile and insisting instead on a sentence of six.<sup>39</sup> But this reversal was an exception in a trend toward leniency. In the months that followed, the *Gaceta* published fourteen provincial decrees listing 800 *indultos*,<sup>40</sup> with some like an April decree that reduced seventy-three existing sentences,<sup>41</sup> while another granted full pardons to twenty-five who had been sent to Panama immediately after December 4.<sup>42</sup>

One reason for the increasingly relaxed terms was the challenge of keeping the accused imprisoned. In Bogotá, they were held in the typhus-ravaged prison in the Colegio de San Bartolomé, a flash point for criticism and a symbol of the government's disorganization.<sup>43</sup> In April, Ramon Ardila, a well-known Melista, wrote to protest the conditions of his imprisonment, claiming that

35 "Petición de Raimundo Grillo," Bogotá, January 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,71, leg. 34, ff. 847-850, quote f. 849.

36 F. E. Álvarez, margin note, "Petición de Raimundo Grillo," in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,71, leg. 34, f. 848. Grillo later received an *indulto* with a two-year sentence of exile, "Lista de los individuos que han sido indultado por el poder ejecutivo i por la Gobernacion de Bogotá," *El Reportorio. Periodico oficial del a provincia de Bogotá*, April 30, 1855, (Trimestre 9, 98).

37 Uribe de Hincapie and López Lopera, *Las Palabras de la Guerra*, appendix 4, 499. See Luis Fernando García Núñez, "El Alacrán en el periodismo satírico del siglo XIX," *Credencial Historia* n° 215 (2007): s/p.

38 The last list with names included only six people, all of whom were granted unconditional pardons, Manuel M. Mallarino, "Decreto concediendo indulto," *Gaceta Oficial*, September 26, 1855, 1065.

39 Pedro José Velazco i Valdez, "Decreto de Indulto," Popayan, *Gaceta Oficial*, May 15, 1855, 808. On Alaix, see Alonso Valencia Llano, *Dentro de la ley. Fuera de la ley. Resistencias sociales y políticas en el valle del río Cauca, 1830-1855* (Cali: Universidad de Valle, 2008), 236; and Sanders, *Contentious Republicans*, 76.

40 A Socorro decree granted those not named an unconditional pardon, Lucas Caballero, "Decreto sobre indulto," Socorro, *Gaceta Oficial*, April 19, 1855, 714-715.

41 Rómulo Duran, "Decreto sobre indulto," *Gaceta Oficial*, May 5, 1855.

42 "Lista de los individuos que han sido indultado," 98.

43 See the pamphlet, Un Observador, "Al Congreso Nacional," 1855, in BNC, *Anselmo I Pineda* 1002, 66.

he was held shackled in a crowded cell with fifty-six others.<sup>44</sup> Officials dismissed his complaints, but they could not ignore the public outcry or the challenge of holding suspects. In June, as three prisoners were being transferred from San Bartolomé to the Charity Hospital, Ardila and Jenero Gaitan took advantage of the disorder to escape.<sup>45</sup> Their pending *indulto* was cancelled.<sup>46</sup>

Other signs of the regime's inability to manage a formal judicial review proliferated. That same month, officials reported that Luis Estrada, sentenced to four years of military service in Panama, had been seen moving freely around Bogotá.<sup>47</sup> The governor also compiled a list of 55 men who had been sentenced to exile in Panama, noting that five had fled.<sup>48</sup> In July, officials called attention to the petition of Martín Mogollon, largely because his name appeared on a number of lists and they could not determine his actual sentence.<sup>49</sup> There were no published lists in 1856. Instead, the year was punctuated by decrees marking the regime's flagging will to deal with the remaining accused rebels or to enforce existing sentences. One decree in January reduced existing sentences; another in July voided earlier conditions except for those who had served in the military prior to April 17.<sup>50</sup> On September 30, 1856 a final decree pardoned former members of the military, though they were obliged to present themselves to their respective governors, remain outside of the province where they had committed their crime for a year, and provide a bond as a guarantee of good behavior.<sup>51</sup> Legally, the rebellion was over.

### 3. Individual Appeals

Working against the ordered pretensions of these decrees was the steady stream of individual petitions submitted by accused rebels and their families. Though the decrees were intended to circumvent time-consuming trials, officials reviewed petitions that had been prompted by suc-

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44 Ramon Ardila, "Petición de Ramon Ardila," April 27, 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 451-469. Ardila was accused of participating in the initial rebellion, holding various high offices, and levying a forced loan with particular zeal, Venancio Ortiz, *Historia de la revolución de 17 de abril de 1854* (Bogotá: Imprenta de Francisco Torres Amaya, 1855), 58-61, 112, 178. See also comments by Alejandro Silva, "Petición de Alejandro Silva," February 17-March 20, 1854, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 117-140, leg. 34, ff. 467-69. Lleras also detailed the overcrowding at San Bartolomé, *San Bartolomé en 1855*, 11.

45 See notes between officials in the National Government and the Government of Bogotá in general correspondence, June 19-21, 1855, in AGN, República, *Gobernaciones: SR.46*, Subfondo Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 589-90.

46 Mallarino, "Decreto declarando comprendido a varios individuos en el indulto concedido por el decreto legislativo de 29 de mayo último," *Gaceta Oficial*, June 8, 1855, 886.

47 This comment is from a marginal note on an otherwise illegible document in general correspondence, in AGN, Sección República, Fondo *Gobernaciones: SR.46*, Subfondo Gobernaciones. Bogotá: SR.46,72, leg. 35, f. 614.

48 E. Briceño in general correspondence, Bogotá, June 2, 1855, in AGN, República, *Gobernaciones: SR.46*, Subfondo Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 540-540v.

49 "Petición de Martín Mogollon," Bogotá, June 7, 1855, in AGN, República, *Gobernaciones: SR.46*, Subfondo Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 653-54.

50 Mallarino, "Decreto levantando las condiciones con que se han concedido ciertos indultos," *Gaceta Oficial*, January 1, 1856, 1, and Mallarino, "Decreto sobre indultos," *Gaceta Oficial*, July 20, 1856, 553. For a prior decree relaxing conditions, see Velazco i Valdez, "Decreto sobre indulto," *Gaceta Oficial*, Popayan, August 2, 1855, 982.

51 Mallarino, "Decreto sobre indulto," *Gaceta Oficial*, September 30, 1856, 665.

cessive decrees as if they were formal legal appeals, gathering information through reports, letters of support, and sworn testimony given in front of local judges. The result was an unwieldy process that drew in more and more people. Consider the appeal of Modesto Barbosa to shorten the four-year sentence of exile that was a condition of his *indulto*.<sup>52</sup> Barbosa wrote from prison in Bogotá, arguing that even though he had served as a judge in the town of Choachí during the rebellion, he had always acted honorably. He asked the presiding judge of Choachí at that time to take testimony to confirm this claim. Six men were questioned in the court offices of the town and testimony was then taken from Felipe Sandino at his home, where he was confined due to poor health. Anyone in Choachí who was not already following this drama surely learned of the affair as the judge, notary, witnesses, and others walked from the court office to Sandino's home to pose, in the formal rhythms of a court procedure, questions relating to Barbosa's actions. One appeal touched dozens of lives and created countless moments for participants and observers to reflect on the responsibilities of citizens to defend a regime incapable of maintaining control over society.

Writing about Tudor England, K. J. Kesselring notes that a pardon "has no intrinsic meaning," that it is the presentation of mercy, the humility of the supplicant, and the participation of an audience that imbue the act with significance.<sup>53</sup> In New Granada, the rationalist intentions of the regime foundered in a splintering administrative effort that produced hundreds, if not thousands, of mercurial public performances, in part because petitioners turned to traditional juridical culture. When Juan Nepomuceno Franqui wrote from prison in 1855, he invoked regal, Christian mercy in seeking the "*gracia*" of an *indulto*, a fairly common usage.<sup>54</sup> In contrast, very few petitioners employed the republican rhetoric of appealing to the "Citizen" Vice-President.

The most profound appeal to tradition was when petitioners invoked family and familial obligations. These appeals also tended to reflect on the hardship of exile.<sup>55</sup> Juan Nepomuceno Garcia invoked this theme when writing to the governor of Cauca on behalf of his son Miguel who was in exile for having served as the mayor of Buchitolo during the rebellion. He was living in Jamaica, serving an eight-year sentence of exile, already halved from the original sentence of sixteen.<sup>56</sup> The appeal was short and poignant. Garcia wrote that he would not live until his son's scheduled return in 1863, "porque la vida es un vapor que se disipa."<sup>57</sup> He reflected on the petitioning process:

"De todas partes os dirijirán memoriales padres, hermanos, esposas, amigos i aun los mismos enemigos políticos para conseguir la libertad de hijos, esposos, amigos, hermanos i enemigos. Los gemidos del dolor i los gritos de la desesperación se oyen en tu resinto a todas horas i los

52 See Obaldía, "Decreto sobre indulto," 560. For his successful appeal, see "Petición de Modesto Barbosa," Bogotá, February-March, 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 103-107v; and "Lista de los individuos que han sido indultado," 98.

53 Kesselring, *Mercy and Authority*, 3.

54 "Petición de Juan Nepomuceno Franqui," Bogotá, March 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 177-179.

55 On this subject, see Heléna Tóth, "The Historian's Scales: Families in Exile in the Aftermath of the Revolution of 1848." *The Hungarian Historical Review* 1, n° 3/4 (2012): 294-314.

56 "Petición de Juan Nepomuceno García para Miguel García," January 15, 1856, in AGN, República, *Gobernaciones Varias: SR.47*, leg. 195, ff. 3-4 and 241. On his original sentence of sixteen years, see *Gaceta Oficial*, January 1, 1855, "Petición de Juan Nepomuceno," f. 3-3v.

57 "Petición de Juan Nepomuceno," f. 3-3v.

gritos del goza si hay algunos no serán la expresión de la felicidad sino de la antipatía que gozo del mal de sus víctimas.”<sup>58</sup>

His son had paid for his deeds, “esos brazos los reclaman la agricultura, las ciencias, las artes, el comercio i en fin la patria misma.” García included no testimonies to his son’s honorable character. The basis of the petition was that his need and those of the nation, even the rising passion for economic development, were intertwined. In a variation on this theme, Maria de Jesus Ordoñez petitioned on behalf of her son, José Trinidad Forero, arguing that he had suffered through internal exile while attempting to avoid impressment by Melistas during the war. Only sixteen years old, he had sought shelter in various locations and deserted after being forced to serve.<sup>59</sup> Ordoñez asked if the government would subject her son to a second exodus? Marginal notes in her appeal indicate that officials were sympathetic, and Forero was among those who received an unconditional pardon in April.<sup>60</sup>

When Jenaro Mendoza, “ciudadano pacifico, buen padre de familia, honrado, sumiso y obediente a las autoridades,” appealed to the governor of Pamplona for an *indulto* in January of 1855, he situated family within a more significant context.<sup>61</sup> In Mendoza’s account, when Melista forces entered Pamplona in August 1854, they claimed the town’s central plaza without opposition from the retreating government forces. Soon after, the rebels appeared at Mendoza’s home near that plaza and demanded that he continue his military service, threatening his family should he refuse. How, he asked rhetorically, could he have abandoned his wife and children after the battle was lost? Mendoza’s precise description of the plaza, the cathedral, and his home juxtaposed spaces where sacred, patrimonial authority girded the moral functioning of the republic. In vacating the plaza, the government allowed the web of obligation binding social order to unravel. As a “padre de familia,” Mendoza fulfilled his obligation to protect those under his authority in the sacrosanct domestic space, while those who had abnegated a similar responsibility now stood in judgment over him. The governor of Pamplona acknowledged Mendoza’s upstanding character but, as the appeal was submitted prior to the decree of February 28, could only recommend that he be granted an unconditional pardon.<sup>62</sup> Until the decrees of 1856, members of the military who had continued to serve were ineligible for pardons, so the petition was refused and Mendoza’s critique ignored.

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58 “Petición de Juan Nepomuceno,” f. 3-3v.

59 “Petición de María de Jesus Ordoñez para su hijo José Trinidad Forero,” Bogotá, December 11-28, 1854, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,71, leg. 34, ff. 421-428. Women often participated in petitioning, though only an April list from Popayan included women *indultados*, Velasco i Valdez, “Decreto sobre indulto,” Popayan, *Gaceta Oficial*, May 15, 1855, 808. On women as secondary actors, as “angels,” see José Ignacio Sáenz, *Grandes hechos para la historia* (Bogotá: Imprenta Echeverría Hermanos, 1854); and Francisco A. Palau, *Resumen historico de los hechos patrioticos i recomendables que se han ejecutado en esta provincia desde las elecciones populares de 1853 hasta el 4 de Diciembre de 1854* (Cali: Imprenta de Velasco, 1855), 27.

60 “Lista de los individuos que han sido indultado,” 98.

61 Testimony of Santiago Contreras, “Petición de Jenaro Mendoza,” Pamplona, January 1855, in AGN, República, *Gobernaciones Varias: SR.47*, leg. 192, ff. 903-911, quote f. 904v.

62 Eusebio Mendoza, “Petición de Jenaro Mendoza,” Pamplona, January 1855, in AGN, República, *Gobernaciones Varias: SR.47*, leg. 192, f. 910.

Pedro Neira Acevedo also invoked family in seeking a pardon, though in a different fashion than Mendoza.<sup>63</sup> Neira was the son of General Juan José Neira, a veteran of the Wars of Independence who had come out of retirement to lead the defense of Bogotá at a precarious moment during the War of the Supremes. The general saved the city in 1840 and died shortly after from wounds received in battle. His son served as governor of Boyacá during the rebellion and was accused of holding a command during the final defense of Bogotá. In February 1855, perhaps free on bail, Neira defended his actions and pre-emptively appealed for an *indulto* in the pamphlet “*Manifiesto a la nación*.” In it he offered one of the few unabashed defenses of the rebellion offered by any accused Melista, arguing that the uprising was an inevitable, even desirable, product of the nation’s growing democratic spirit.<sup>64</sup> Most of the pamphlet reflected on the heroic life of his father, but not even the general’s martyrdom could protect his son. In a postscript added on February 13, Neira informed readers, “se me ha vuelto a reducir a prisión, violando escandalosamente todas las leyes que garantizan la libertad individual. Cuando la tiranía impera debe callar la voz de razón.”<sup>65</sup>

Between the time of his arrest and the Decree of February 28, which denied him any form of clemency, he was transferred to the Charity Hospital in Bogotá and then to Boyacá for trial.<sup>66</sup> On March 3 his mother, Liborio Acevedo de Neira, sought an *indulto* on the grounds of his poor health. When this attempt failed, she asked that his trial be moved to Bogotá since his enemies would never permit a fair hearing in Tunja.<sup>67</sup> Her intervention had little impact. An April decree banished Neira Acevedo from New Granada.<sup>68</sup> There is no reference to how he served out his exile, but by 1857 he had returned and resumed writing. In *Representación al Congreso de 1857*, he extended his earlier arguments by combining a biography of his father with an appeal for the restoration of his own share of the pension awarded to the family after the general’s death:

“Desterrado de la República en 1854 porque la venda de la imparcialidad, que cubre los ojos de la justicia, había desaparecido, porque los platos de su balanza no estaban en equilibrio, pues uno de ellos lleno de odio implacable, era tan pesado como la espada de Breno en la balanza romana: marchaba al extranjero i al dejar las playas de mi patria, una resolución del Sr. José de Obaldía, Vicepresidente de la República [...] me privó del goze de la pension vitalicia que como hijo de Neira me corresponde por decreto del Senado i Cámara de Representantes de 1841, inserto en la Recopilación Granadina.”<sup>69</sup>

63 For the accusation that Neira persecuted loyalists, see a list of Melistas accused of such actions, Z. Silvestre, general correspondence, March 10, 1855, AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, f. 144.

64 Pedro Neira Acevedo, *Manifiesto a la nación* (Bogotá: Imprenta del Neo-Granadino, 1855), 16-17.

65 Neira Acevedo, *Manifiesto a la nación*, 17.

66 “Petición de Liborio Acevedo de Neira,” Bogotá, March 3, 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, f. 108; and Obaldía, “Decreto sobre indulto,” 560.

67 Regarding the fact that Neira Acevedo did have enemies, see an attack in *La Última Campanada*, December 28, 1855.

68 “Lista de los individuos que han sido indultado,” 98.

69 Pedro Neira Acevedo, “Representación al congreso de 1857” (Bogotá: s/e., 1857), 1, <<http://www.banrepcultural.org/blaavirtual/ciencia-politica-representacion-al-congreso-de-1857>>. Decrees generally stripped *indultados* of government pensions, but the award in honor of General Neira was divided: one-third for his parents and siblings; and the remaining two-thirds for his widow and children. See marginal notes in “Petición de Liborio Acevedo de Neira,” Bogotá, June 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 625-627. Similarly, Juan N. Azuero was forced to return a pension granted by the Melo government as a condition for obtaining an *indulto* in Velez, Ramon Mateus, “Decreto de indulto,” *Gaceta Oficial*, May 30, 1855, 855-856.

As in other cases, familial references had little effect. Another common theme was the financial concerns engendered by the rebellion and subsequent dislocation. Such concerns point to a facet of *indultos* that has generally received little scholarly attention: they functioned as fines for criminal offenses under the guise of a pardon. After each civil war, the effort to determine who was guilty of political crimes merged with the task of sorting out who had used the rebellion for illicit gain, particularly those who had abused their official positions or engaged in looting. Decrees were explicit in the fact that *indultos* did not cover common criminal acts. This distinction between acts of rebellion and common crimes was an acknowledgement that rebellion was a political act, not merely a criminal scheme. But this subtle distinction was obscured in the rhetorical conflation of the two categories. Petitions for *indulto* frequently cited accusations of livestock theft, which endangered a valuable resource in such a cash-poor society.

Petitioners tended to emphasize that they had used their positions of authority to prevent abuses by hardened Melistas, that they had not profited when forced to accept a post during the rebellion. The unsuccessful petition of José Delfín Caballero elaborated on this point. His advocates described him as an orphan with a young wife and children, an honorable artisan who was so humble he could not address the magistrate directly, and had been forced into military service and the unfortunate job of seizing cattle.<sup>70</sup> Furthermore, the petition was supported by a number of self-identified foreigners who wrote that:

“[...] como hombres tenemos para abogar, donde quiera que vivamos por los derechos imprescindibles de la humanidad comprometidos toda vez que haya una persona que sufra [...] si el pacto fundamental de la N. Granada no prohíbe nuestra pretensión el gran libro de la justicia cuyos principios universales establece la equidad i la razón si la favorece i apoya i por ese creemos que no será invalido que elevemos a un Gobno. Ilustrado como el de la nación, nuestra voz, para pedirnos la libertad de un granadino.”<sup>71</sup>

But requisitioning cattle was too much to forgive. Even under a subsequent decree, Caballero was exiled.<sup>72</sup> Less explicit were *indultos* with financial penalties attached. Only one decree from Velez went so far as to list fines as a condition of clemency.<sup>73</sup> One of these *indultados*, Julian Herrera, sought a reduction of the fine of 320 pesos. His petition included a veritable litany of excuses for his role during the rebellion, which he had been forced to assume since his wife's condition following childbirth had prevented his flight when Melistas took over. He admitted serving as a judge during the rebellion, but claimed he had used the position to protect the public.<sup>74</sup> He had released imprisoned constitutionalists, refused immoral assignments, and shielded people from

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70 “Petición de José Delfín Caballero,” April-May, 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 472-475.

71 “Petición de José Delfín Caballero,” 474.

72 Mallarino, “Decreto declarando comprendidos,” 886.

73 Mateus, “Decreto de indulto,” 855-856. Another decree from the government of Cundinamarca mentioned money explicitly, pardoning almost 400 people unconditionally, setting short sentences of exile for a number of others, and freeing two, so long as they found a reputable sponsor to post a bond, “Lista de los individuos que han sido indultados,” 98.

74 “Petición de Julian Herrera,” Bogotá, April-May, 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, ff. 371-380.

abuse by Ramon Ardila when he toured the province levying a forced loan. Herrera sought to have his fine reduced:

“[...] yo solicito el indulto por mis compromisos políticos en la revolución, porque necesito urjentemente de mi libertad, la necesito porque tengo acreedores i debo rendirles cuentas, porque tengo esposa, i debo ampararla, i porque tengo hijos que ya piden pan i debo trabajar para proporcionárselo.

[...] Soi pobre Sor. Gobernado tengo orgullo en confesarlo, después que el sacudimiento que acaba de conmover el orden social ha desnivelado tanto la propiedad arruinando a unos i enriqueciendo a otros [...] I acaso los pecados de los pobres son irremisibles? Si el Gobno quiere olvidar mis comprometimientos i asegurarse de mi conducta para el provenir puede exijirme una fianza i someterme a una condición que no tenga el carácter de una multa de una pena.”<sup>75</sup>

To circumvent his enemies in Vélez, the appeal, along with a letter of support from several congressmen, was sent to the governor of Cundinamarca, who forwarded it to the national government with a note of support. The appeal was nonetheless denied. Herrera’s petition is a remarkable presentation of the story of a merchant’s honest toil and honorable poverty. The reference to profiteering invoked the tensions that had triggered the war and implied that the constitutional order trumpeted by the victors masked naked self-interest.

The financial obligations of *indultados* were rarely articulated so clearly. What was more widespread, though less frequently documented in official correspondence, was the practice of requiring *indultados* to post a bond as a guarantee of future behavior.<sup>76</sup> When Pedro Martin Consuegra returned from exile in New York in 1857 he appeared in Sabanilla, just outside of Barranquilla, and presented a bond from José Collanate as a guarantee of his good conduct, though the amount was not specified.<sup>77</sup> Such scenarios presented abundant opportunities for corruption and coercion.

#### 4. The Return of Party Politics

As post-war legal processes stretched through 1856, politics returned to more predictable patterns, wherein Liberals and Conservatives competed for power while managing internal factionalism. In the presidential elections of that year, the first held since the Constitution of 1853 had established universal male suffrage, Golgotas sought Draconian support for the candidacy of Manuel Murillo

<sup>75</sup> “Petición de Julian Herrera,” 375v-376.

<sup>76</sup> For example, Marcelino Garcia managed to change the terms of his sentence of four years of military service in Panama after presenting evidence of honorable behavior and a bond of 2000 pesos. “Petición de Marcelino Garcia,” Bogotá, February-March, 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, f. 174.

<sup>77</sup> Juan Antonio Calvo, general correspondence, Cartagena, October 21, 1857, in AGN, Sección República, Fondo *Gobernaciones: SR.46*, Subfondo Gobernaciones. Cartagena: SR.46,137, leg. 39, ff. 449-451. For another example, see a note from Pedro Gutiérrez Lee releasing Jenaro Ruiz from jail on the condition that he depart for exile in Antioquia and provide an unspecified *fianza* in July of 1855, in AGN, República, *Gobernaciones: SR.46*, Gobernaciones. Bogotá: SR.46,72, leg. 35, f. 670.



Toro. The work of Pedro Neiro is enlightening as to how such appeals were received. In July he published *La bandera de la rejeeneración*, meditating on April 17:

“[El pueblo] estaba cansado de sufrir, no ignoraba que la lucha podría ser, dudosa i sangrienta; sabia que la guerra seria larga, i dificil el triunfo. Sin embargo, estaba resuelto a vencer o morir, i se sacrificó con heroismo: pero se sacrificó casi solo, con unos pocos amigos condenados luego a la prisión i al destierro. Al destierro! •••• prision mas grande pero no ménos triste que la otra! Nos suicidamos, es verdad, pero este suicidio será nuestra gloria. Fuertes por nuestra conciencia, seguros de nuestros principios, i tranquilos sobre el porvenir, hemos muerto por una noble causa, nos hemos sepultado vivos en la Tumba de la República como víctimas espiatorias inmoladas en las aras de la Libertad.”<sup>78</sup>

Following this exalted rhetoric, he urged his comrades to abstain from voting in the upcoming election. In response, fifteen self-identified Draconians published *A los revolucionarios de 17 de Abril*, in which they acknowledged Neira’s argument and then urged their comrades to vote for Murillo Toro in the upcoming election.<sup>79</sup> For some, the division of 1854 was less important than the politics of the moment.

This attitude did not prevail. Both Murillo Toro and Mosquera (who was running as an independent) lost to the Conservative Mariano Ospina Rodríguez, who oversaw the establishment of a new constitution in 1858 that created the Granadine Confederation, a transitional step toward federalism. Two years later Mosquera, now positioned as a Draconian Liberal, led a rebellion against Ospina’s government, arguably the only successful national insurrection of the nineteenth century. He followed his triumph with an *indulto* for all who had served the defeated regime.<sup>80</sup> Obando took up arms under his old rival, dying in the name of the federal cause he had cynically championed two decades before. Melo had made his way to Mexico where he was killed fighting in defense of Benito Juárez’s liberal government in 1860.

## Conclusion

The post-war reckoning that followed the Golpe de Melo centered on the presentation of legal accountability as a rational process, but a flood of petitions for individual *indultos* laid bare the fundamental contradictions of republican constitutionalism. The restored regime sought to circumvent a lengthy process of public trials and, contradictorily, present *indultos* as elements of a constitutional process beyond familial considerations, surpassing contemporary Atlantic regimes

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78 Pedro Neira Acevedo, *La bandera de la rejeeneración* (Bogotá: Imprenta Neo-Granadino, 1856).

79 Among the authors were a “*militar*,” and an “*artesano*.” Habacuc Franco, Anjel Gomez, Jose Maria Gonzalez, *et. al.*, “A los revolucionarios del 17 de Abril,” Bogotá, August 4, 1856, in BNC, Fondo *José María Vergara* 296, Pieza 20. Signee José M. Quintero was probably the same person who had received a two-year sentence of internal exile. For more infirmation on this, see Obaldía, “Decreto sobre indulto por delitos políticos,” *Gaceta Oficial*, March 1, 1855, 560.

80 For a series of broadly worded *indultos* issued by Mosquera in triumph as he established a provisional government, see *Actos oficiales de gobierno provisorio de los Estados Unidos de Colombia* (Bogotá: Imprenta de Echeverría Hermanos, 1863), 53-55.

in promoting legal rationalism.<sup>81</sup> In the place of charismatic displays of mercy, the regime published accounts of Obando's trial and decrees listing the *indultados*. Undermining this effort, officials considered hundreds, if not thousands, of individual appeals based on more traditional criteria of family, honor, and public morality than those recognized by the government. This unresolved tension ensured that despite the restored regime's best efforts, the memory of this war could not be erased.

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81 For comparison, see Georgina López González, "Cultura jurídica e imaginario monárquico: las peticiones de indulto durante el Segundo imperio mexicano." *Historia Mexicana* 55, n.º 4 (2006): 1289-1351; and Robert H. Duncan, "Political Legitimation and Maximilian's Second Empire in Mexico, 1864-67." *Mexican Studies/Estudio Mexicanos* 12, n.º 1 (1996): 27-66, doi: dx.doi.org/10.2307/1052077; Stacy Renee Davis, "Transforming the Enemy: Algerian Colonization, Imperial Clemency and the Rehabilitation of France's 1851 Republican Insurrectionaries" (PhD diss., Yale University, 1999); and Martin R. Waldman, "The Revolutionary as Criminal in 19<sup>th</sup> Century France: A Study of the Communards and 'Deportes.'" *Science & Society* 37, n.º 1 (1973): 31-55. For context, see James E. Sanders, *The Vanguard of the Atlantic World. Creating Modernity, Nation, and Democracy in Nineteenth-Century Latin America* (Durham/London: Duke University Press, 2014).

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