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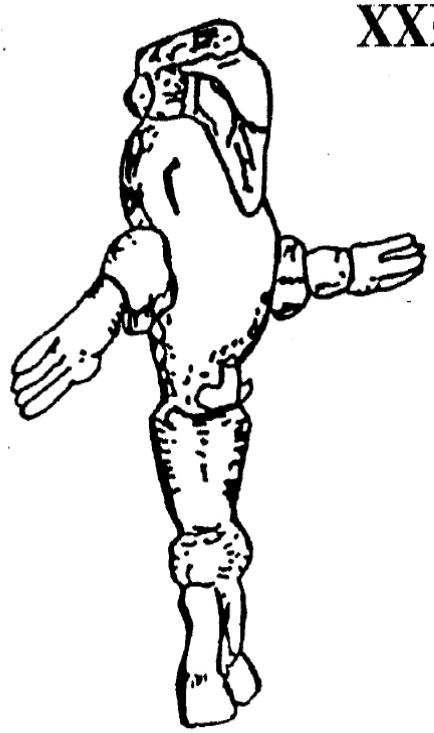

XXIX^e CONFERENCE ANNUELLE DE L'ASSOCIATION DES HISTORIENS DE LA CARAÏBE

MARTINIQUE
7 - 12 AVRIL 1997

Social change and the decline of slavery in the French Antilles : slaves and the law, (1830-1848)

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In the 1830s and 1840s, slaves in the French Antillean colonies of Martinique, Guadeloupe and French Guiana sought to profit from changes in slave law to improve their social condition and combat slavery, but their efforts were only partially successful. During this period, new laws were drafted and amendments were made to the *Code Noir* of 1685.[1] For the most part, the new laws neither nullified nor contravened those found in the *Code Noir*, but they made acquisition of freedom more attainable, curtailed the disciplinary powers of slave owners and gave more authority to colonial bureaucrats in an effort to alleviate the abuses slaves suffered at the hands of their owners.

This paper explores changes in slave law in the French Antilles during the 1830s and 1840s, and the manner in which slaves interpreted and used the law. It demonstrates that slaves were aware of changes in the law. As they had no direct access to the courts, they used intermediaries as best they could, filed complaints with legal authorities when permitted, and staged demonstrations, work slowdowns and work stoppages. Their actions made them more socially conscious, pointed up cracks in the hegemonic control of slave owners and drew greater attention to their plight, as observers raised doubts about the alleged amelioration of slavery. However, the judiciary in the French colonies continued to follow the traditional pattern of favoring slave owners and colonists over slaves, disregarding legislation in

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[1] Le Code Noir ou recueil de règlements rendus jusqu'à présent, 1685 reprint (Basse-Terre: Société d'histoire de la Guadeloupe, 1980).

the process. In attempting to improve slavery, the intent of the legal changes was clear, but implementation of legislation was difficult and spotty. As a consequence, slave owners retained control and slaves continued to resist slavery using law - an aspect of slave society that has received insufficient historical treatment - among other tools.

Slavery and the *Code Noir*

In the French Antilles, law and order in slave society were enshrined in the Edict of March, 1685, better known as the *Code Noir*. The *Code Noir* deals with virtually every aspect of the slave's life and remained in effect throughout the French Antilles until emancipation in 1848, except in the case of Saint-Domingue (now Haiti) which fought for, and won its freedom in 1804. Though detailed and often precise, the *Code Noir* is not a good barometer of slave life. In 1685, no one could have foreseen the dramatic transformation which the Caribbean territories would undergo in the eighteenth and nineteenth centuries. This transformation occurred as a result of changes in the structure of the economy and included the development of large sugar plantations and massive demographic shifts. To cope with this development, new measures were required either to strengthen existing regulations or to deal with hitherto unforeseen situations. Called ordinances for the most part, the measures that were introduced after 1685 became part of the legal framework of the French Antillean colonies. They provide a window on slave society which the *Code Noir* does not, and are, as a result, a greater indicator of change.

Some ordinances were royal ordinances originating in France.

These sometimes applied to a specific colony, but were generally applicable to, and adopted by all. In addition, each colony drafted and enacted its own ordinances from the outset. In the case of Guadeloupe and Martinique, colonial administrators and the *Conseils Souverains* (Sovereign Councils) drafted local ordinances from as early as the 1660s. For the most part, these ordinances were incorporated into the *Code Noir*. After 1685, the pattern of law-making remained as it was in the pre-*Code Noir* period.

Councils were first established in 1645 and formalized in the *Conseil Souverain de la Martinique* in 1664.[2] In 1685, councils were established in Saint-Domingue and Guadeloupe.[3] They were comprised of different levels of representation including the Governor of the colony, members of the militia, large planters, and, in the seventeenth century, officers of joint stock companies. With minor changes, this structure remained in place throughout slavery, but became less powerful after the 1830s, as we shall see. Somewhat like the assemblies in the British Caribbean, councils functioned much like courts, passing judgements and handing down sentences. But they lacked the will to enforce rulings and, like local magistrates charged with executing the law, were always more concerned about the welfare of slave owners.

An exploration of several of the local ordinances reveals a continuous repetition of *Code Noir* regulations and legislative acts

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[2] See P.F.R. Dessalles, Les Annales du Conseil Souverain de la Martinique, 4 tomes, 1786 reprint (Paris: L'Harmattan, 1995).

[3] Lucien Peytraud, L'esclavage aux Antilles françaises avant 1789 (Paris: Hachette, 1897), pp. 146-147.

passed after 1685 suggests that, from a very early stage, the laws were disregarded. Moreover, as the sugar plantation economy expanded with the use of African slave labor, most notably in the eighteenth century, violation of the laws became rampant. As a result, abuse of slaves was widespread. Efforts to curb abuses generally failed since the slave owner's rights in the slave prevailed above all else. Indeed, the perceived need to maintain law and order in societies where Blacks greatly outnumbered Whites outweighed any concerns about the mistreatment of slaves. In the past, French scholars have stressed the difficulties of enforcing the *Code Noir* and have blamed local tribunals for being too lax.[4] It must, however, be stated that laws could be ignored not only because of racial solidarity among Whites, or what Gordon K. Lewis perceives as "unanimity on the issue of white supremacy",[5] but because there was an integral link between sugar and slavery which the state supported through law. The sugar economy of the French Antilles was vital to the commercial interests of France and slavery was seen as indispensable to sugar production. As such, French authorities generally backed sugar planters who violated the laws with impunity. In this respect, the law was compromised.

In both the *Code Noir* and the ordinances which followed it, the major concern was the security of Whites. Aside from limited protective regulations - clauses dealing with the obligations of

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[4] Pierre-Victor Malouet, Mémoire sur l'esclavage des Nègres (Paris: A Neufchatel, 1788), p. 56. Peytraud, L'esclavage, p. 149.

[5] Gordon K. Lewis, Main Currents in Caribbean Thought (Baltimore: Johns Hopkins University Press, 1983), p. 127.

slave owners in the area of nourishment, religious education and family welfare - most of the articles in the *Code Noir* are really police regulations designed to restrict the mobility and actions of slaves. Even so, manumission was possible. An unmarried slave owner who had a child or children by a slave concubine he owned was required by Article 9 to marry her in the Catholic church, freeing her and the child or children by this act.[6] Contravention of Article 47, which prohibited the break up of the slave family,[7] sometimes led to manumission of slaves as well. And as long as slave owners were twenty years of age, they could free their slaves, according to Article 55.[8] Few slaves gained their freedom by these means, however. Slaves had no recourse to the judiciary when their rights were violated, and slave owners seldom freed their slaves.

The disciplinary powers of slave owners were excessive, which explains why the most common complaint of slaves in the 1830s and 1840s was excessive flogging. The number of lashes was not fixed in the *Code Noir*. Under Article 42, slave owners were allowed to chain and whip slaves with cords and cow hides if they deemed that slaves merited such punishment, but they were forbidden to torture or mutilate them, actions which could result in confiscation of the slaves by the state and prosecution of slave masters.[9] However,

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[6] Le Code Noir, pp. 33-34.

[7] Le Code Noir, p. 51.

[8] Le Code Noir, p. 55.

[9] Le Code Noir, pp. 48-49.

mutilation was permitted for *marronnage* or slave flight.

In the arena of labor, the law was virtually open-ended as to how much a slave owner could demand of a slave. The *Code Noir* placed no limits on the slave's workday, but Article 6 forbade slave owners from working slaves on Sundays and holidays. If they disobeyed this law slave owners risked the payment of fines, as well as having the state confiscate the slaves they put to work illegally, along with the commodities they produced.[10] The law really meant that slaves were at the disposal of their owners, except for a limited number of hours that were open to manipulation. Indeed, during the slave period, slave owners reduced holidays to a bare minimum and worked slaves as they pleased, up to 18 hours per day during the sugarcane harvest.[11]

In terms of redressing their grievances, the most difficult problem for slaves was lack of direct access to the judiciary. Article 44 of the *Code Noir* declared that slaves were chattel, the property of their owners.[12] In theory, all that they possessed belonged to their owners.[13] And their offspring were slaves in perpetuity, the property of the slave woman's owner.[14] Elsa Goveia

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[10] Le Code Noir, p. 32.

[11] Louis Sala-Molins, Le Code Noir ou le calvaire du Canaan (Paris: Presses Universitaires de France, 1987), pp. 102-103; Gabriel Debien, Les esclaves aux Antilles françaises (XVIIe-XVIIIe sciècles) (Basse-Terre: Société d'histoire de la Guadeloupe, 1974), p. 148.

[12] Le Code Noir, p. 49.

[13] Le Code Noir, pp. 42-43.

[14] Le Code Noir, p. 35.

has argued that although the slaves in the French Antilles were private property, they did not cease to be a matter of public concern and that public interference in the management of slaves was taken for granted, at least until the expansion of slavery and the "development of a feeling of white solidarity..."[15] However, race was a factor from the early period of colonization and public concern about slaves always revolved around security. As chattel, slaves could testify in neither criminal nor civil matters. When they were required to testify, their testimony was regarded as information relevant in aiding judges to illuminate their cases, but was not considered binding.[16] But the law left an opening, however inadvertently. Article 26 allowed slaves to lodge complaints against slave owners with the *Procureur Général* (Attorney General), the chief legal officer and representative of the Crown in the colonies who had the authority to investigate and pursue their case.[17] Although this was an opening of sorts that slaves could exploit, it did not afford them real protection. As Sala-Molins has pointed out, the slaves could complain, but their testimony was worthless. Besides, both slave owners and the colonial administration were secure in the knowledge that Articles 30 and 31 would be scrupulously respected, while Article 26 was regarded as a mere "legislative distraction", elevating the slave

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[15] Elsa Goveia, The West Indian Slave Laws of the 18th Century (Bridgetown: Caribbean Universities Press, 1970), p. 38.

[16] Le Code Noir, pp. 44.

[17] Le Code Noir, pp. 41-42.

to the status of "subject" - denied in the rest of the *Code Noir*.[18] To be sure, much depended on the integrity of individuals including magistrates and attorney generals, some of whom were slave owners and had a vested interest in maintaining slavery and not in reform.

Slave Law in the 1830s and 1840s

A variety of political, economic and social factors led to important amendments of the slave laws and the drafting of new ones in the French Antilles in the 1830s and 1840s. These changes had a positive impact on the slaves' perception of what could be achieved using the law as a vehicle, albeit in indirect ways. First, a new administration in France was willing to confront the problem of slavery, pushed, to some degree, by a stronger anti-slavery movement. Second, the sugar plantation economies of the French Antilles became more integrated into the world market economy and declined as a result of increased competition.[19]

Scholars are divided over the role the July Monarchy under Louis-Philippe played in the decline of slavery from 1830 when it took office. Their arguments revolve largely around political and economic factors, and are reminiscent of those over the causes of British abolition - still the subject of an ongoing debate. Gisler

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[18] Sala-Molins, Le Code Noir, pp. 142-143.

[19] Josette Fallope, Esclaves et citoyens: les noirs à la Guadeloupe au XIXe siècle (Basse-Terre: Société d'histoire de la Guadeloupe, 1992), pp. 247-249; 286; Dale Tomich, Slavery in the Circuit of Sugar: Martinique and the World Economy (Baltimore: Johns Hopkins University Press, 1990), pp. 53-75; Christian Schnakenbourg, Histoire de l'industrie sucrière en Guadeloupe (XIX-XX siècles): La crise du système esclavagiste (Paris: L'Harmattan, 1980), pp. 124-136.

believes that a "new mentality" on slavery emerged, as the French wanted to follow the British example, and stresses the importance of metropolitan initiatives and intervention in the colonies without which the fate of the slaves would have been sealed.[20] In an impressive recent study, Fallope makes a similar argument, though more detailed and analytic. While not dismissing other factors, she emphasizes that the new rulers were ideologically close to the liberal principles of the French Revolution with its emphasis on civil rights, and were preoccupied with policies aimed at lessening the tensions in slave society and resolving conflicts through dialogue and liberal solutions.[21] Gaston-Martin gives credit to the July Monarchy as well, but points out that it sometimes violated its own policies on the slave trade.[22] Opposed to these arguments is Schnakenbourg who states categorically that the July Monarchy had no intention of ending slavery, "not immediately, not in ten years, not even in twenty." It was only forced to do so due to pressure brought on by global economic conditions and slave resistance.[23]

The issues to which these arguments give rise are complex and cannot be adequately be dealt with here, but Fallope's position is worth further amplification. So is the economic issue. Fallope

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[20] Gisler, L'esclavage, p. 146.

[21] Fallope, Esclaves, p. 248.

[22] Gaston-Martin, Histoire de l'esclavage dans les colonies françaises (Paris: Presses Unicersitaires de France, 1948), pp. 272-279; 292.

[23] Schnakenbourg, Histoire, p. 101.

shows that both in France and in the colonies, new liberal personnel were appointed to head government ministries, creating an atmosphere of hope. Among them was Admiral Dupotet, who was posted to Martinique as governor in 1830. Governors were still appointed by the French king, but some officials were now named by the *Conseil Généreux* which made the system of government somewhat more representative. Legislation was now concentrated in the hands of the French parliament where the battle for reform could be fought more openly.[24]

On the economic front, the sugar economies of the French Antilles began to falter after 1830, due to local and international factors. The loss of Haitian sugar production from 1804 led to the loss of French dominance on the European market. The beet sugar industry in France thrived from 1830, production rising from 7,000 metric tons in that year to 20,000 metric tons in 1833 and 40,000 in 1835.[25] This impressive increase in production was largely due to French protective tariffs and duties placed on sugar produced in the colonies. At the same time, new and more fertile areas of production such as Mauritius, India, Java and the Philippines made the sugar industry more global and competitive. In Mauritius, sugar cane cultivation expanded from 27,000 acres in the 1820s to 129,000 in the 1860s.[26] Similarly, "sugar exports rose from an annual

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[24] Fallope, Esclaves, p. 248; Antoine Gisler, L'esclavage aux Antilles françaises (XVIIe-XIXe siècle), pp. 145-146.

[25] Tomich, Slavery, p. 62.

[26] David Northrup, Indentured Labor in the Age of Imperialism, 1834-1922 (New York: Cambridge University Press, 1995), p.31.

average of 33,443 tons in the 1830s, to 100,000 tons in the 1850s and 1860s."[27] However, increased globalization led to a fall in French colonial sugar prices. From 139.90 francs per 100 kilograms in 1830, colonial sugar prices dropped to 107.18 francs on the Paris market in 1839.[28] The colonial economies were therefore characterized by crisis in the 1830s. As Northrup explains:

> In this competitive environment the successful growers needed more than access to a steady supply of cheap labor. To remain profitable while the unit price of sugar tumbled they had to invest heavily in better land, fertilizer, and new machinery that could increase their productivity. Such investments required borrowing large amounts of capital from lenders who favored regions richest in natural resources and with the best access to large markets.[29]

In these circumstances, the viability of the slave system was questioned, particularly after 1833 when enforcement of the ban on the French maritime slave trade that had been imposed in 1831 was taken seriously for the first time. For about 15 years, the French had resisted British demands to board and search French ships suspected of trading slaves illegally, but it was the July Monarchy that reluctantly conceded in order to promote good diplomatic relations with England which it deemed useful in counterbalancing other forces in Europe.[30] With the abolition of British slavery in 1834, French abolitionists were motivated to redouble their efforts in the struggle to end French slavery. Indeed, it was in 1834 that

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[27] Northrup, Indentured Labor, p. 34.

[28] Tomich, Slavery, p. 64.

[29] Northrup, Indentured Labor, p. 31.

[30] Gaston-Martin, Histoire, pp. 264-271.

the *Societe pour l'abolition de l'esclavage* was founded in Paris with the aim of monitoring slave conditions and ending slavery. During a debate on colonial budgets in 1836, one of its members, Lamartine, called for the immediate emancipation of the slaves.[31] These are the circumstances under which new slave laws were introduced. And it therefore seems probable that the initiatives that the July Monarchy took were determined as much by pragmatism as anything else.

One of the first new pieces of legislation was introduced on November 11, 1830. This law abolished most of the discriminatory acts to which the *gens de couleur* (free coloreds) had been subjected since the eighteenth century. They included the prohibition against the purchase of arms, and the practice of certain professions such as medicine and surgery. The restoration of these rights was considered a necessary first step.

Other measures were directed at slaves who lived in a state of quasi-freedom, unofficially liberated by their owners without the required official papers. These were the *libres de fait*, first referred to as *libres de savane*, whose precarious status sometimes led to a reversion to slavery. Under an ordinance of March 1, 1831 the colonial state dropped the fee for liberty patents which cost as much as 3,000 French francs each prior to 1831. This measure facilitated freedom for slaves who had limited access to cash. However, the slave owner still had to assume responsibility for the slave's sustenance before the state could issue a patent, an

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[31] Gaston-Martin, Histoire, pp. 281-283.

obligation which Victor Schoelcher contends discouraged slave owners from emancipating slaves.[32] The 1831 ordinance was followed by a royal decree of July 12, 1832 which permitted all categories of slaves not covered by previous legislation to bid for freedom[33] through sponsorship by a *patron*, usually the slave owner.

The process appeared to offer quick, positive results, but there were hurdles. Indeed, the bureaucracy that the colonial state established to carry out the legislation was cumbersome and lacked the power, if not the will, to reign in slave owners who blocked or wilfully delayed the process leading to the emancipation of their slaves. There is no doubt that slave owners had authority and they used it to manipulate the process to their advantage.

In each French colony, a *Directeur de patronage* was the intermediary between the administration and the slave. Regarded as the slaves' proprietor, he was assisted by a delegate or lieutenant in each parish or district. These assistants were required to keep registers with detailed information about slaves within their jurisdiction, including their age, gender and profession. They were also charged with assessing the legitimacy of the slaves' claim to liberty. They submitted monthly reports to the *Directeur de patronage* who in turn sent detailed trimestrial reports to the governor of the colony. The governor reported to the Minister of

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[32] Victor Schoelcher, Des Colonies françaises: abolition immédiate de l'esclavage 1842 reprint (Basse-Terre: Société d'histoire de la Guadeloupe, 1976), p. 305.

[33] Schoelcher, Colonies, p. 304.

Marine and Colonies in Paris. Depending on the nature of the slave's petition, the *Directeur de patronage* also communicated and worked with other administrators including the *Procureur Général* and the *Directeur de l'interieur*. This was particularly so when difficult cases had to be resolved, but a majority vote carried. The *Directeur de patronage* sometimes corresponded with the *procureurs du roi* as well. By so doing, he acquired police reports from various towns, reports from mayors of rural communes and heads of police divisions. Such reports revealed crimes committed by slaves, among others. The *Directeur de patronage* had to visit each district every six months, but it is unlikely that he did so.

The slave's bid for freedom began in his/her respective district with a petition to the *Directeur de patronage* who could retain legal counsel or represent the slave before the judiciary if he so chose. Proper documentation was an important requirement. For the *libres de fait* a major problem was the lack of proof of status, without which their names could not legally be inscribed in the provisional register that was open to public scrutiny. In 1832 a commission of inquiry into slave status raised concerns that any slave could claim to have the status of *libre de fait*, the effect of which would be an exodus from the plantations. To guard against this possibility, it recommended to the Minister of Marine and Colonies that the status of *libres de fait* be conferred upon all slaves who were presumed to have had the title, indeed, upon all slaves who had irregular non-free status; and that slaves be required to present a certificate, signed by a justice of the peace

in the presence of seven free property holders, attesting to their status. The commission also proposed that a three month period of public announcements leading to liberation be instituted.[34] Thus, the commission was attempting to temper liberation by regulating the process in a systematic fashion to prevent chaos.

As it turned out, declarations attesting to the slave's status and intention had to be posted in public places and in the colonial newspapers three times. If there were no reclamations against the slave or if they proved to be unfounded, the *Procureur Général*, in whose hands the final decision lay, then authorized an *arrêté* that permitted the governor of the colony to inscribe the slave's name in the civil register.

Slave owners opposed the new law as well as the additional powers granted to the *Procureur Général*,[35] demonstrating that they were still powerful and the slaves still vulnerable. It is worth stressing that the decision to sponsor a slave was a personal one; it was not an obligation on the part of slave owners. Thus there were slaves who were *libres de fait* with sponsorship from slave owners, and those without. The latter sometimes sponsored themselves, though it is unclear what this process involved. It is possible that self-sponsorship occurred when slave owners who had sponsored slaves died before the process of liberation was complete. Whatever the nature of sponsorship, most of the *libres de*

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[34] Archives D'Outre-Mer (hereafter, A D-M), Fonds Généralités, Carton 666, Dossier 2843, July 24, 1832.

[35] Fallope, Escalves, p. 288.

fait were still regarded as slaves after 1831, even though the relations between them and their owners varied widely in terms of obligation and personal relations. In some cases, slave owners made few demands on them, but turned them over to friends in whose service they were exploited; in others, the *libres de fait* were virtually independent but were not allowed to abandon the plantation, as the case of Marie-Claire, an elderly slave woman from French Guiana who received a sustained flogging for doing so, shows.[36] In Saint-Domingue, it appears that such slaves were expected to remain in place as well.[37] Due to their precarious status, some *libres de fait* ventured to neighboring British colonies, where it was possible to acquire freedom papers after 1834, then returned to the French colonies with their new status.[38] At first, the colonial state accepted this means of acquiring freedom, but later prohibited it. This demonstrates that slaves were aware of legal loopholes and made use of them.

All categories of *libre de fait* sought emancipation under the new laws. Indeed, the level of demand for freedom papers, gleaned from the colonial newspapers, was high. As Table I shows, the number of slaves granted freedom in Guadeloupe rose significantly after 1833. In the period 1833-1837, the number of patents granted

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[36] Schoelcher, Colonies, p. 85.

[37] David P. Geggus, "Slave and Free Colored Women in Saint-Domingue," in More Than Chattel: Black Women and Slavery in the Americas, eds. David Barry Gaspar and Darlene Clark Hine (Bloomington: Indiana University Press, 1996), p. 268.

[38] Schoelcher, Colonies, p. 306.

rose by a little more than 380% over the period 1830-1833. Of the 6,839 patents granted in 1833-1837, 4, 033 or 58.97 per cent were *libres de fait*.[39] If we accept Fallope's figure of 7, 576, rather than Schoelcher's 8, 637 as the number of slaves freed in Guadeloupe between 1833 and 1837 - a difference of 61 slaves- the statistical picture does not change that much. However, it is noteworthy that in Guadeloupe, all districts experienced an increase in the number of slaves freed between 1833 and 1835, but particularly the large urban communities of Pointe-à-Pitre and Basse-Terre.[40] Thus, it is worth emphasizing that in general, the *libres de fait* who gained freedom were mostly urban slaves. Also, the number of slaves freed, whether *libres de fait* or not, constituted only a small minority of the total slave population as Table II shows. The 3,190 slaves freed in Guadeloupe in 1833 - the largest number by far for any year during the decade - represent only 3.2% of the total slave population. Abolitionists were quick to point out that the number of freed slaves was exaggerated and that slave owners used the new legislation to rid themselves of

Table I
Number of slaves freed in Guadeloupe, 1830-1837

Year	Number of slaves
1830-1833	1,798
1833-1837	6,839
	8,637

Source: Schoelcher, Colonies, p. 308.

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[39] Schoelcher, Colonies, p. 308.

[40] Fallope, Esclaves, p. 296.

Table II
Slave Populations of the French Caribbean
Selected years - 1830s

	Martinique	Guadeloupe	La Guyane
1831	86,300	97,300	19,100
1832	82,900	99,500	18,200
1833	79,800	99,000	17,600
1834	78,200	96,700	17,100
1835	78,100	96,300	16,900
1836	77,500	95,600	16,600
1837	76,000	94,600	16,100
1838	76,500	93,900	15,800

Source: Philip Curtin, The Atlantic Slave Trade: A Census (Madison: Wisconsin University Press, 1969) p. 78.

old and disabled slaves who could scarcely make a living as free persons.[41] They did not always provide concrete evidence to support their allegations, but they were correct in asserting that the pace of liberation was too slow, particularly for field slaves. According to Rouvellat de Cussac, the ratio of freed slaves to slaves in Martinique was around 1:300 annually from 1837, not including contraband slaves freed by the state. [42] Yet the slaves' response to changes in the law should not be minimized. Indeed, an administrative report of 1835 pointed out that although there was confusion among slaves about the legal process of obtaining liberty papers, 8,000 demands had been received since the 1832 law was introduced.[43]

Demands for liberty by the *libres de fait* cut across age

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[41] Schoelcher, Colonies, pp. 308-309; J-B Rouvellat De Cussac, Situation des esclaves dans les colonies françaises (Paris: Pagnerre, 1845), pp. 135-136; 150-151.

[42] Rouvellat De Cussac, Situation, p. 151.

[43] A D-M, Carton 666, Dossier 2845, Fort Royal, February 15, 1835.

groups, but the overwhelming number of demands were made by women. Does this mean that slave owners were reluctant to sponsor male slaves? It is revealing that a significant number of sponsored slaves were colored women and their children, and to a lesser degree, black women and their colored children. Demands from male slaves seldom included children. Future research may well determine whether this situation resulted from the absence of paternity rights of male slaves. Also, slave women's *patrons* were largely white males, which raises the possibility of the type of sexual exploitation common in slavery.

Examples of slave women and children sponsored directly or indirectly by white males abound. A few should suffice. In 1834, Rosette, a washerwoman, aged 48, along with her colored daughter Cécile, 19, were sponsored by Pierre Xavier Ruffi Belleville, a plantation overseer from St. Pierre, Martinique. That same year Francois St. Catherine sponsored Archil-Victoire, a 39 year-old colored washerwoman. And Joseph Albert of Basse-Pointe authorized his wife to sponsor a 14-month old colored child, Sebastien (Etor).[44] The number of elderly slave women who sought liberty patents under the 1832 law is noteworthy, and shows that freedom was desirable at any age. In 1836, the slave woman Charlotte, a nurse aged 85, asked for her freedom from her women owners, Valery Garrou and Carre of Mouillage in Saint-Pierre, Martinique.[45] And in

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[44] Journal Officiel de la Martinique, vol. XVII, no. 32, April 19, 1834, p. 1.

[45] Journal Officiel de la Martinique, vo. XIX, no. 9, January 30, 1836. p. 1.

1837, the colored slave woman Victoire (Zoboyo) 81, was granted her freedom "under the provisions of the July 12, 1832 law, as she was one of the *libres de fait*."[46] Down to the end of slavery, demands for liberty patents by the *libre de fait* remained strong. This was the case in spite of opposition from colonists, as evidenced by the fact that in Martinique the *Conseil privé* threatened to impose a fine of 41-60 *livres* on slave owners who as of March 1, 1836, failed to advance the process leading to liberation of their slaves who were properly sponsored.[47] Thus, the difficulties of obtaining liberation through sponsorship by *patrons* notwithstanding, slaves still saw the law as an option.

The possibility of gaining liberation increased with the introduction of the law of June 11, 1839, but the effect was very limited. Under the new law, slaves could be sponsored by free relations - spouses and biological and adoptive parents. However, this arrangement required the approval of slave owners who often opposed it, especially in cases where slaves committed "infamous" offenses - those requiring correctional punishment amounting to the maximum number of lashes permitted by law.[48] It is also likely that slave owners opposed the law due to the potential loss of control over the process of liberation they envisioned it would bring. Yet

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[46] Journal Officiel de la Martinique, vol. XX, No. 1, January 4, 1837, p. 1.

[47] A D-M), Dossier 2845, Carton 666, Extrait du Conseil Privé, Martinique, December, 1835.

[48] Fallope, Esclaves, p. 290.

freedom via sponsorship by relatives appears to have pre-dated 1839. Cases of family sponsorship are not rare; but neither are they plentiful. In 1832, Zabeth, a spinster, sponsored her 8-month old colored daughter, Annaise, a *libre de fait*.[49] Zabeth's status was not revealed, but the status of her infant daughter suggests that she was a slave. Likewise, Jeanne, a 36 year-old cleaning woman who had four colored children, sponsored two of them, Jean Baptiste Ferdinand, 16, and Cherubin, 18, both artisans. What is striking about this case is that Jeanne and her other two children, aged 4 and 14, were co-sponsored by a white male, Danglebermes, and by Jeanne herself.[50] As she and her children were *libres* de fait, she must have been a slave, and therefore would not quality, at least on her own, as a legitimate sponsor. The 1839 law would only have been effective if the freed slave population was large. Thus the following contemporary observation is apt:

> no one has ever seen a free person contract marriage with a slave in the last 50 years or so. Neither has any one seen a slave legally adopted by his master or another free person. Common sense dictates that whoever wishes to adopt or marry a slave should first free that slave.[51]

In addition to the laws that facilitated liberation, there were those that curbed the disciplinary powers of slave owners, elevated public officials over slave owners in assuring the

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[49] Journal Officiel de la Martinique, vol. XVII, no. 25, March 26, 1834, p. 1.

[50] Journal Officiel de la Martinique, vol. VXII, no. 28, April 5, 1834, p. 1.

[51] Rouvellat de Cussac, Situation, p. 134.

material well-being of the slave, and regulated the length of the slave's workday. A law of April 30, 1833, forbade branding and mutilation though such acts, as Schoelcher points out, had already been abolished in the colonies for some time.[52] Also, magistrates could pay surveillance visits to plantations to verify slave conditions under a law of January 5, 1840. And a law of September 16, 1841 limited prison terms of slaves to 15 days on the plantation. Beyond that, power was transferred to the justice of the peace who normally set prison terms in public jails and work terms on state farms.[53] In theory, these laws dealt a blow to slave owners. But they disobeyed the laws, encouraged no doubt by the courts which openly condemned the 1840 ordinance and refused to convict the guilty.[54] In any case, slave owners apparently knew the magistrates' itinerary and prepared for their visits.

The last and most important piece of legislation in the 1840s was the Mackau law of July 18, 1845 which exempted women, children, the old and sick from the whip, and limited the number of strokes male slaves could receive to 15 once a week,[55] down from 29.[56]

The effectiveness of the laws introduced from 1840 onward is not difficult to gauge, as attitudes to the law among white

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[52] Schoelcher, Colonies, p. 112.

[53] Fallope, Escalves, pp. 291-302; Tomich, Slavery, pp. 230-255; Gisler, L'esclavage, p. 132; Schnakenbourg, Histoire, p. 98.

[54] Gaston-Martin, Histoire, p. 291.

[55] A D-M, Fonds Généralites, Carton 630, Dossier 2736, June 4, 1846.

[56] Schoelcher, Colonies, p. 89; Tomich, Slavery, p. 242.

colonists remained fairly standard and the slaves' recourse to the judiciary remained circumscribed. But scholars should proceed cautiously. Slave owners faced an increasingly determined and resilient slave population that was willing to test the limits of the slave system and profit from cracks in white hegemony. For the slaves, surveillance of plantations and "protection" by public officials did not come without a price. Word spread quickly in slave society and the fate of slaves who lodged complaints with the authorities known. But slaves persisted in the face of negative outcomes. In 1840, a group of 6 female and male slaves from Saint-Pierre lodged a complaint with the *Procureur du roi*, after initial complaints to their female owner about the abuse they and other slaves suffered at the hands of their plantation overseer were disregarded. For their efforts, the slaves were imprisoned overnight. With their hands tied behind their backs, they were taken under police escort back to the plantation the following day, there to be whipped in front of the plantation gang.[57]

Similarly, Schoelcher relates the case of a slave woman and her daughter from Moule (Guadeloupe) both of whom complained about excessive whipping which produced, in the woman's case, cuts and welts, such that she could not be moved. The medical report which he examined also showed that the woman received 15-20 strokes and her daughter, 12-15.[58] Thus the decline in the maximum number of strokes did not necessarily lead to a decline in the abuse of

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[57] Gisler, L'esclavage, p. 140.

[58] Schoelcher, Colonies, p. 90.

slaves. That they complained nevertheless, shows that slaves were conscious of the intent of the law.

The slaves' interpretation of the labor elements of the Mackau law led to clashes with plantation owners and colonial authorities in the 1840s. The law attempted to limit the slaves' working day to a legal maximum in a 24-hour period with provisions for wages for extra work. Two days after its introduction slaves in Martinique targeted night work, staged demonstrations, work slowdowns and work stoppages, such that the infantry had to be called upon to quell disturbances.[59] However slight they may have been, the cracks in the political hegemony of the slave-owning class could only have emboldened the slaves. In the 1840s, some slave owners were being reigned in. Indeed, more planters were being fined; more were being given light prison sentences. Between 1843 and 1846 some slave owners were fined 100-200 French francs. In a few instances, slave owners (usually colored) were given short prison terms - two weeks to a month - in addition to being fined.[60]

By 1848, slaves had crossed the threshold of liberty both psychologically and socially, changes in the law notwithstanding. Having no standing before the courts slaves could be represented by their owners in cases where the owners sought to protect their property interest, but they could not rely on their owners to take up their case if the owner's own abuse was the issue. The *Procureur*

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[59] Tomich, Slavery, p. 230; Henri de Frémont and Léo Elisabeth, La vie d'un colon à la Martinique au XIXe siécle: Pierre Dessalles, 1758-1857 4 tomes (Paris: Courbevoire, 1986), 4, p. 40.

[60] A D-M, Martinique 98, Dossier 876, Affaires de Sévice.

Général was their litigation guardian, but he was constrained by the slave system, and by the judiciary. Thus, the enforcement of rights depended on the seriousness with which he approached his responsibilities, an intellectual pursuit well worth undertaking.

To be sure, the nature of slavery - a violent institution - meant that it was impossible to reform slavery through law. Slaves were chattel and not legal persons. Legal personality is required to effectively use the laws to enforce one's rights. Without that, slaves could not initiate legal proceedings. Thus the only effective change would have been to grant legal personality to slaves which would bring an end to their status as chattel. Indeed, the only effective reform would have been abolition. There can be little doubt that slaves in the French Antilles understood this, but they used the slave laws of the 1830s and 1840s to combat slavery until full freedom could be achieved. In this respect, they were inventive, innovative and resilient. These are the qualities which enabled them to constantly challenge the slave system and survive despite the odds.