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A Brief History with Documents

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1

The French Atlantic and the Haitian Revolution

1

FRENCH CROWN

The Code Noir

1685

The 1685 Code Noir (Black Code) was the first integrated slave code written specifically for the Americas. It served as a model for later slave legislation under Dutch and Spanish regimes. The Code Noir reflected the tendency toward increasing bureaucratization and systemization under Louis XIV. Derived from customary practices already developed in the colonies since the 1630s, the Code Noir was a collaborative effort by colonial officials and Catholic missionaries, modified by input from royal officials in Versailles.

Edict of the King concerning the Enforcement of Order in the Islands of America, Versailles, March 1685

[The first eight articles allowed only the Catholic religion to be practiced in the French slave colonies. They expelled all Jews, required the Catholic baptism of all slaves, prohibited Protestants from practicing their religion

"Code Noir, touchant la police des isles de l'Amérique," Versailles, March 1685, in François-André Isambert, *Recueil général des anciennes lois françaises depuis l'an 420 jusqu'à la révolution de 1789* (Paris, 1830). Translated by Sue Peabody.

in public or teaching it to slaves, kept Sunday a day of rest by forbidding masters to make their slaves work and prohibiting the slave markets on Sunday, and outlawed non-Catholic marriages.]

9. Free men who sire one or more children with slaves out of wedlock, together with the masters who permitted this, will each be condemned to a fine of two thousand pounds of sugar. And if they are the masters of the slave by whom they have had the said children, we wish that, in addition to the fine, they be deprived of the slave and the children, and that she and they be confiscated for the profit of the [royal] hospital, without ever being manumitted. Nevertheless we do not intend for the present article to be enforced if the man was not married to another person during his concubinage with his slave, and if he marries the said slave according to the church's formalities. She, then, by this means will be manumitted and the children rendered free and legitimate.

[Articles 10–11 regulated marriage in the French slave colonies. The law required parental consent for free people to marry but only a master's consent for slaves. Masters could not force slaves to marry against their will.]

12. Children who are born of a marriage between slaves will be slaves and will belong to the master of the women slaves, and not to those of their husbands, if the husband and the wife have different masters.

13. We wish that if a slave husband has married a free woman, the children, both male and female, follow the condition of their mother and be free like her, in spite of the servitude of their father; and that if the father is free and the mother is enslaved, the children will likewise be slaves.

[Articles 14–18 established lawful burial practices for slaves, forbade slaves from carrying weapons (unless the master had permitted the slave to go hunting), prohibited large slave gatherings for marriages or other purposes, and set limits on slaves' ability to engage in commerce. For example, they could not sell sugar under any circumstances, presumably to prevent them from stealing from their masters.]

19. We also forbid them from displaying for sale at the market or from carrying to private houses for sale any kind of commodity —

even fruits, vegetables, firewood, grasses for feeding animals, and their crafts — without express permission of their masters....

[Articles 20–21 established police to monitor slaves' compliance with Article 19 and allowed any free colonist to confiscate any of the mentioned items from slaves and to arrest the slave unless the slave had the master's written permission to engage in local markets. Articles 22–25 attempted to prevent masters from abusing their slaves by insisting on minimum rations of food and clothing, forbidding the distribution of rum in lieu of staple foods, and forbidding masters from making slaves raise their own food in garden plots. This last provision was not enforced.]

26. Slaves who are not fed, clothed, and supported by their masters according to what we have ordered by these articles will notify our attorney of this and give him their statements. Based on this, and even as a matter of course if the information comes to him from elsewhere, the king's attorney general will prosecute the masters without cost. We want [these articles] to be observed for the crimes and barbarous and inhumane treatments of masters towards their slaves.

27. Slaves who are infirm by age, sickness, or otherwise... will be fed and maintained by their masters. And in the case when they are abandoned, the slaves will be awarded to the hospital, to which the masters will be required to pay sixpence per day, for the nourishment and maintenance of each slave.

28. We declare that slaves can own nothing that does not belong to their masters. And everything that comes to them — by their own industry, by the generosity of others, or otherwise —... be acquired in full property to their masters, without the slaves' children, their fathers and mothers, their relatives or any others, being able to claim anything of it by inheritance, donations inter vivos, or because of death. We declare such dispositions null, together with any promises and obligations that they have made, as being made by people incapable of disposing and contracting on their own initiative.

29. We nevertheless wish that masters be held responsible for any acts of their slaves, performed under their orders, including any transactions and negotiations in their shops, and for the particular type of commerce for which their masters employed them. And in the case where their masters have not given them any order, and have not employed them, they will be held responsible only to the extent that they themselves have profited by the slaves' actions. And if nothing has turned to the profit of their masters, the *peculium* [property under

direct control of the slave] of the said slaves that their masters have permitted them to have, will be held, after which their masters will first deduct that which is due to them. If not, the *peculium*, consisting in whole or in part of merchandise, with which the slaves have been permitted to do business separately, will be split equally between the master and the other creditors.

30. Slaves are not allowed to hold offices or commissions with any public function, nor are to be named as agents by anyone other than their masters to act or administer any trade or estimate losses or as witnesses, in either civil or criminal matters; and in cases where they are heard as witnesses, their dispositions will only serve as memoranda to aid the judges in the investigation, without being the source of any presumption, conjecture or proof.

31. Nor can slaves be party, either in judgment or in civil suits, as plaintiff or defendant, neither in civil or criminal suits, except to act for or defend their masters in civil proceedings and to pursue in criminal matters the reparation of insults or excesses that are committed against their slaves.

32. Slaves may be prosecuted criminally, without implicating their master, unless he is an accomplice. Accused slaves will be judged in the first instance by ordinary judges and under appeal to the sovereign council, upon the same instruction, and with the same formalities as free people.

[Articles 33-37 stated that the death sentence is the ultimate punishment for slaves who commit crimes, from bruising or causing a member of the master's family to bleed to assault against any free person or theft of valuable property. For misdemeanors, such as theft of food, slaves could be beaten or branded. Masters could also be fined for their slaves' crimes against others.]

38. A fugitive slave who has been in hiding for a month, counting from the day that his master made a public announcement, will have his ears cut off and be branded with the fleur-de-lis [a symbol of the king of France] on his shoulder. For recidivism for another month, likewise counting from the date of a public announcement, he will be hamstrung and branded on the other shoulder with the fleur-de-lis. For the third time, he will be condemned to death.

39. Former slaves, now free, who have harbored runaway slaves in their houses are condemned as a group to pay a fine of 3,000

pounds of sugar to the masters for each day of harboring slaves. Other free people who have similarly harbored runaway slaves must pay a fine of ten *livres tournois* [French unit of money] for each day of retention.

[Articles 40-41 established procedures whereby slaves sentenced to death would have their cases reviewed by governmental appointees and prohibited judges from receiving fees for deciding these cases. Articles 42-43 set limits on the violence masters could use against their slaves. Shacking, beating, and whipping slaves were permitted; mutilation and killing were not. Articles 44-54 regulated slaves as a particular type of property, including provisions for their status as inheritance (they were heritable) and a prohibition against their seizure against a debt. Husbands, wives, and children could not be sold separately.]

55. Masters, having reached the age of twenty, will be able to manumit their slaves by all deeds or by cause of death, without being required to provide the reason for this manumission; neither will they need the parents' permission, provided that they are over twenty-five years of age.

56. Slaves who have been made universal beneficiaries by their masters, or named executors of their masters' testaments or tutors of their children will be held and regarded as manumitted.

57. We declare slaves' manumissions enacted in our islands to serve in place of birth in our islands and manumitted slaves will not need our letters of naturalization in order to enjoy the advantages of our natural subjects in our kingdom, lands, and countries under our obedience, even if they were born in foreign lands.

58. We command manumitted slaves to retain a particular respect for their former masters, their widows, and their children; such that any insult will be punished more severely than if it had been done to another person. We nevertheless declare them free and absolved of any other burdens, services or rights that their former masters would like to claim, as much on their persons as on their possessions and estates as patrons.

59. We grant to manumitted slaves the same rights, privileges and liberties enjoyed by persons born free. We wish that they merit this acquired liberty and that it produce in them, both for their persons and for their property, the same effects that the good fortune of natural liberty causes in our other subjects.

This we give and command to our loved and loyal supporters the persons holding our sovereign council established in Martinique, Guadeloupe, and Saint-Christophe, that they have it read, published, and registered. . . .

[Signed Louis, Colbert, LeTellier]

2

A Tavern Keeper Sues for Her Freedom in Martinique (Binture v. La Pallu)

1705-1714

A slave woman, Babet Binture, claimed freedom from her mistress, Madame La Pallu, on the grounds that she had been free since birth. Although some facts are murky, the surviving documents show a real power struggle—not only between slave and mistress, but also between royal officials on the island of Martinique and the crown itself in France. Historians have not found any surviving documents, such as baptismal records, to confirm or deny Binture's claim. The case stretched out over the better part of a decade, and we do not know the final outcome. However, it is significant that Binture was able to persuade at least one official of the legitimacy of her claim to free status.

The first letter excerpted below, from the Governor of Martinique to the French secretary of state, provides useful background to Binture's case.

Governor Machault, Letter to the Secretary of State for the Marine, August 30, 1704

Whereas the free Negroes harbor runaway slaves to work in their gardens, they conceal the goods they've stolen, and they even share these thefts with them, and in this they do wrongs that are very harmful to the colonists. To bring a remedy to this I believe, Your Grace, that it would be in the interest of justice to publish an ordinance to the effect that free Negroes who are found to be harboring runaways will

French National Archives, Col. C⁸ A 15, f. 268v-69v. Translated by Sue Peabody.

be deprived of their freedom and that they and their entire family residing with them will be sold to the King's profit. This will make it impossible for slaves to run away.

With regard to the free Negroes, there is another abuse that must be remedied. There are masters who free their Negroes after having "abused" them and lower-class whites [*petits habitants*] who allow their slaves to purchase their freedom for silver, which encourages the slaves to steal to make the price of their freedom, I believe. My Grace, to stop these abuses one could order that no master could free his slaves without the permission of the Sovereign Council, which would judge whether there is a valid reason to allow them to enjoy this grace. This precaution would prevent freedom from becoming the reward for theft and impurity.

Your very humble and very obedient servant,

De Machault

Fort Royal, Martinique

Acting Intendant Mithon, Judgment on Babet Binture's Petition for Freedom, April 8, 1705

Seen by me, the Intendant, the petition presented to Machault, Governor, by Babet Binture, Negress, which was forwarded to us by the said Babet, who is presently in the service of Miss La Pallu. By this petition, she seeks her liberty, claiming to have been born of a free father and a free mother. . . . Heard: the said Miss Pallu and the said Binture, who requested us to hear witnesses that they have produced on both sides. . . . Received and viewed: the depositions of the said witnesses and notably the grandchildren of Mrs. Chauvigny, resident of Saint Barthelemy, owner of Big John, father of the said Babet Binture and of her family. All of which having been diligently examined and the said Babet Binture not having been able to produce any ticket nor justifying evidence for the claimed freedom, which she has never enjoyed until now, we have ~~condemned~~ [scratched out in the original document] dismissed and do dismiss the pretensions to the said liberty, declare her a slave of the said Miss Pallu and, to punish her temerity to start inappropriate and groundless proceedings against the said Miss Pallu, her mistress, we have condemned and do condemn

French National Archives, Col. F³ 250, p. 301. Translated by Sue Peabody.