

LAW AND SOCIETY IN SAINT DOMINGUE: 1789-1805

An Undergraduate Research Scholars Thesis

by

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ABSTRACT

Law and Society in Saint Domingue and France: 1789-1805 (May 2014)

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We will examine the discrepancy between boundaries of race prescribed by law and those actually experienced within the French colony of Saint Domingue and the implications of these boundaries on individuals from 1789 to 1805. Through this project, we will explore bigger themes such as the social and political effects of these boundaries on free people of color who resided in these areas. We intend to frame our research by addressing the relationship between law and society. French law (and therefore law in Saint Domingue) clearly delineated certain boundaries between races that in reality did not occur. We will argue the inconsistency between the law and its execution created a grey area for the people of Saint Domingue. Examining the intersection of the French legal system with what actually occurred allows us to draw conclusions about the broader relationship between law and society.

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CHAPTER I

INTRODUCTION

Between 1789 and 1805, strict laws clearly regulated life for both free people of color and slaves in French Saint Domingue and metropolitan France. However, those with sufficient means circumvented these regulations, creating a gap between what laws prescribed and lived experience. This era demonstrates a complex and often inconsistent relationship between law and society. Exploring these inconsistencies allows us to draw conclusions regarding the broader relationship between law and society during one of the most influential revolutions in World History.

General Topic

Slaves, free people of color, and whites all faced strict regulations based on the Code Noir, a prominent legal code enacted by King Louis XIV in 1685. French law clearly delineated certain boundaries between races that in reality did not always occur. These affected slaves, free people of color, and whites who resided in these areas, on both a social and political level. Free blacks made an effort to distinguish themselves from enslaved blacks, yet they remained in a social and economic class lower than white citizens. White citizens worked ardently to maintain the suppressive laws and legal codes that would undoubtedly sustain their control. The Code Noir deeply restricted free people of color to the occupations they could pursue, the members of society they could marry, and the areas of both France and Saint Domingue in which they could live. Slaves received more restrictions through this decree that dealt with their marriage, children, and their servitude.

Many restrictions existed on both the slaves and free people of color, but codes also existed that provided for their protection under the order of the king. Occasionally the officials ignored and overrode these decrees, as they never strictly enforced nor implemented the Code Noir.

Questions

This thesis will confront multiple questions and topics throughout its entirety. We aim to discuss how the law and society interact with each other. We also will address the factors throughout society that change the way laws affect individuals. The uprisings in France and Saint Domingue serve as an interesting avenue to explore the relationship between law and lived experience.

Sources

We will employ primary sources, especially the Code Noir and other legal documents as well as letters from some of the key players of the time, in our discussion of Saint Domingue and the Haitian Revolution. Vincent Ogé will serve as a case study for the convergence of law and society during the Liberal Revolution. His experiences in both Saint Domingue and France both support and challenge the pre-existing norms and laws.

General Argument

Although the law of the land shaped society and racism pervaded everyday life, wealth and status occasionally rescinded any intended consequence of the Code Noir. The interaction of law and society greatly affected individuals living in Saint Domingue. In Ogé's case, his wealth reinforced the dissonance between law and lived experience. The revolution and the issues surrounding it demonstrate a complex relationship between legality, politics, society and

everyday life.

Chapter Overview

Historians regularly categorize the French Revolution into four parts: the Liberal Revolution, the Terror, the Directory, and the Consulate. Over the course of the revolution, both metropolitan France and the colony of Saint Domingue saw drastic political and social upheaval. This thesis is divided into four chapters, each focused on one particular period of revolution. We will examine how the law and lived experience evolve throughout each chapter of the revolution. This draws attention to the continuous racial tension within Saint Domingue and the discrepancies between law and lived experience.

Chapter I: The Liberal Revolution

During the Liberal Revolution, from 1789 to 1792, conflict arises between the King and his subjects. Tensions from France influence the French colony of Saint Domingue and mix with already prevalent racial issues to create conflict. The Code Noir defined proper actions for slaves, free people of color, and whites and limited the freedoms of most. Those with money, like Vincent Ogé, circumvented the restrictions, demonstrating a disconnect between law and lived experience.

Vincent Ogé was a wealthy free man of color born in Saint Domingue. Ogé, a businessman, experienced firsthand the effect of the Code Noir on his legal rights as a citizen, although his wealth and power allowed him to bypass the regulations at hand. Ogé clearly had limited political rights as a man of color, but his social status became increasingly ambiguous as his wealth grew and as tensions began in France and Saint Domingue. His business prowess

ultimately provided him with enough money so that others overlooked his racial status at times, yet whites never truly considered him an equal. Ogé's case clearly demonstrates how the power of money overshadows the efficacy of the racially motivated law implemented by the King. This dilemma worsened as revolutions persisted in both metropolitan France and Saint Domingue.

Chapter II: The Terror

Following the death of King Louis XVI in January 1793, a new stage of the revolution arose, known as The Terror. Occurring from mid 1793 to mid 1794, this stage of the revolution provided revolutionaries in metropolitan France and Saint Domingue an opportunity to evolve their ideologies, both socially and politically. The Committee of Public Safety drafted the Constitution of 1793, known as the Constitution of the Year I. Emphasizing popular sovereignty over national sovereignty, the Committee abolished slavery and hoped to afford individual liberties to the general public and common man. But who exactly counts as "the common man"? They did not afford liberties to those of black ancestry. Though legally free, many former slaves found themselves in a de facto slavery, forced to remain on their plantations and work for their former masters. The constitution failed to affect serious change and racial tensions mounted.

Saint Domingue suffered from these structural issues. Following the passage of the emancipation decrees in February of 1793 in the Constitution, the slaves were legally free in Saint Domingue. Although legally free, most of the former slaves remained on their plantations. Those in charge wanted to continue the economic prosperity that Saint Domingue received from its numerous sugar plantations. As France's most prosperous colony, Saint Domingue relied on the plantation system. Former slaves remained on plantations, performing the same tasks they did before the emancipation proclamations. Once again, a disconnect emerged between law and lived

experience. Free in name, but not in reality, the former slaves grew disgruntled. The change in status from slave to free signaled a major difference legally, but for many, life remained much the same. Similar to the period of the Liberal Revolution, the conflict between the application of the law and the society's response to the law grew prominent during the Terror.

Chapter III: The Directory

The Directory (1795 to 1799) provided a conservative response to the actions that took place years prior in France and Saint Domingue. This response resulted in restriction of the civil liberties granted to the common people during the Terror. The Directory did, however, uphold the Committee of Public Safety's abolition of slavery and integration within metropolitan France. The Council of Five Hundred tried to advance the integration and application of French law to the colony of Saint Domingue further by drafting the 1798 Law on the Colonies. By doing so, the Council of Five Hundred made apparent the ideal that all French constitutions and laws were to apply to the colonies of France. This law ultimately limited the freedoms of blacks within Saint Domingue even further, allowing for an uprising within Saint Domingue to take place.

Toussaint L'Ouverture emerged as the leader of the Haitian Revolution at this time. He distinguished himself early on in the struggle, and his power and fame increased exponentially. He allied himself first with the Spanish, then with the French, all the while promoting his own agenda. Legally, Saint Domingue still belonged to France, but Toussaint L'Ouverture led the island more like an independent nation. Once again, a clear dissonance is evident between law and lived experience. L'Ouverture believed in the necessity of successfully integrating all three racial groups of Saint Domingue (blacks, free men of color, and whites), yet supported the

continuation of work by former slaves on plantations and the dominance of the whites. This time marks conflicting social and political ideals: freedom versus servitude, equality versus hierarchy, French colony versus independence, and white versus free people of color versus blacks.

Chapter IV: The Consulate

The fourth chapter discusses the final stage of the revolution, the Consulate. Napoleon Bonaparte, a distinguished military general, rose to power following a coup d'état, planned by his allies. In doing so, the establishment of the French Consulate signifies a conclusion to the revolutions taking place in both Saint Domingue and metropolitan France. From 1799 to 1803, Bonaparte established himself as First Consul and his authoritarian rule differed from the radical democracy that the original revolutionaries had in mind. With a goal to conquer, Napoleon seized power, eventually drafting the Constitutions of 1799, 1802, and 1804. All of the Constitutions significantly increased Napoleon's power.

Napoleon's policy towards Saint Domingue evolved to incorporate military action. In response to the militant action used by Bonaparte, L'Ouverture led a crusade against the French troops commanded by Napoleon's brother, General Leclerc. Following L'Ouverture's capture by French troops, the Saint Domingue forces found themselves under the direction of Jean-Jacques Dessalines. He united the nouveaux libres and the anciens libres for the first time in the revolutionary history, allowing for an easy takeover and declaration of independence in 1804.

The fight for independence from France demonstrates yet another discrepancy between law and lived experience. When Saint Domingue gained independence and became Haiti, Dessalines and the other leaders wrote a constitution with the intention of eliminating the barrier between law

and lived experience. Although the Constitution of 1805 narrowed the gap, a discrepancy still existed between the law and lived experience, especially for the nouveaux libres who did not own property and had no money.

CHAPTER II

THE LIBERAL REVOLUTION

Vincent Ogé spent years in metropolitan France, conducting business and gaining social contacts. The Ogé family dabbled in real estate, sugar, coffee, and shipping in Saint Domingue, and Vincent Ogé inherited his family's wealth and talent for business.¹ In many ways, Vincent Ogé exemplified a perfect specimen of a colonial entrepreneur--cultured, wealthy, talented, and ambitious. Despite the undoubted similarities Ogé must have shared with other colonial businessmen from Saint Domingue, he differed from many of his peers in one significant way: his race. Vincent Ogé was a free man of color. He lived a life filled with inconsistency because of this fact. His story demonstrates the discrepancy between law and lived experience. His wealth sheltered him from the strict regulations of legislation like the Code Noir, but he eventually chose to ally himself with other free people of color and fight for citizenship.

The Liberal Revolution, lasting from 1789 to 1792, saw a discrepancy between law and lived experience. Prior to the French Revolution, Saint Domingue housed nearly 500,000 slaves, 40,000 whites, and 30,000 free people of color.² The free people of color especially faced an inconsistency between the law and lived experience throughout the Liberal Revolution. The Code Noir, a legal document enacted in 1685 by King Louis XIV, intended to address issues of race, slavery, and legality in France, yet conspicuously ignored the word "color". Despite the original purpose of the Code Noir to define slavery, the law itself did not clearly delineate a universal policy for the slaves, free people of color, and white planters in Saint Domingue.

¹ Stewart R. King, *Blue Coat or Powdered Wig: Free People of Color in Pre-Revolutionary Saint Domingue* (Athens, GA: UGA Press, 2001), 152.

² David Patrick Geggus, *Haitian Revolutionary Studies* (Bloomington: Indiana University Press, 2002), 5-7.

Although the legislation severely limited the rights of slaves and many people of color, the white owners and planters had a legal obligation to care for those under their supervision. The law grew equivocal as the slaves technically had no rights, yet had the right to be taken care of. The Code Noir harshly legislated the activities and possibilities for people of color, yet some became successful and circumvented the legislation. Vincent Ogé aptly demonstrates the ambiguity of the law. The Code Noir declared that all free people had the same rights, but subsequent legislation placed increasing limitations on their actions, including professional limitations and restrictions on travel.³ A wealthy free man of color, Ogé traveled to France often. He grew increasingly involved in political affairs as turmoil increased in both France and, subsequently, Saint Domingue. Because of the uncertainty of the legislation and the inconsistent enforcement of it, Ogé found success and wealth. His growing involvement and influence in politics eventually led to his arrest and execution. Both the Code Noir and Vincent Ogé serve as case studies demonstrating the discrepancy between law and lived experience in Saint Domingue.

After the outbreak of the French Revolution in 1789, France eventually found itself entangled in two contradictory moral systems. On one hand, the nation stressed equality, liberty, and freedom. On the other hand, France promoted slavery within its colonies in order to stimulate its economy, beginning in the middle of the seventeenth century. This dichotomy led to what is referred to as the “Freedom Principle.” First established in a royal statute, the “Freedom Principle” provided a solution. In promoting the “Freedom Principle”, the government hoped for the resolution of the rift between the nation’s contradictory values. France had no legal tradition of slavery, with many of the cities within metropolitan France outlawing slavery. By the seventeenth century, any

³ Malick W. Ghachem, *The Old Regime and the Haitian Revolution* (Cambridge: Cambridge University Press, 2012), 91.

slave setting foot on French soil was granted freedom under what became known as the “Freedom Principle”.⁴ This proclamation met challenges as early as 1571, however, when a Norman merchant made efforts to sell slaves within the mainland borders only to be arrested and the sold slaves freed.⁵ Upon the issuing of this decree, the French Government ultimately concluded that there would be no slaves in the French mainland. Despite the legislation, the people of France continued to overlook this rule well into the nineteenth century.⁶

French law did not permit slaves in the French metropole, however, it permitted slavery within the colonies to support economic growth and efficiency. In allowing slavery within his colonial borders, King Louis XIV issued The Code Noir in 1685. In doing so, the King established legal authority for slavery in the French Colonies. The elaborate set of legal codes attempted to lay out the boundaries of the relationship between masters and slaves within French Colonies. The Code Noir and subsequent legislation restrained the rights and choices of the free people of color. While they remained free, legally, they could not pursue certain professions, could not marry certain people, and could not travel outside of Saint Domingue.

While the Code Noir delineated punishment for slaves and upheld the authority of slave owners against their slaves, the legal decree ensured the slaves of their humanity as well. The law theoretically protected slaves from inhumane treatment from their owners and bound slave

⁴ Sue Peabody, *There Are No Slaves in France: The Political Culture of Race and Slavery in the Ancien Régime* (New York: Oxford University Press, 1996), 3-6.

⁵ *Ibid.*, 7.

⁶ Rebecca Hartkopf Schloss, *Sweet Liberty: The Final Days of Slavery in Martinique* (Philadelphia: University of Pennsylvania Press, 2009), 113-151.

owners to provide slaves with appropriate amounts of food, water, and supplies.⁷ The Code Noir explicitly stated “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”.⁸ Statements as such illustrate the many rifts within French slave legislation.

Instances of slave masters not complying with the law occurred throughout Saint Domingue and nearby Martinique. Babet Binture’s case demonstrates the divergent nature of law and lived experience. From 1705 to 1714, a tavern keeper in Martinique struggled to regain the freedom she claimed to have since birth. The first decree dismissed Babet Binture’s “pretensions to the said liberty” and declared her a slave. Three years later, a pronouncement declared her free when her sister was found free.⁹ Clearly, the government ignored Babet Binture’s rights as a free individual, and wrongly enslaved her. The Code Noir did not protect her as it should have.

While the laws proceeded to constantly suppress slaves, these laws ultimately protected the slaves from the harshest of punishments, with some allowing an education. Slave owners were heavily encouraged to bestow upon the slaves the teachings of Catholicism. The Code Noir

⁷ Jeremy D. Popkin, *A Concise History of the Haitian Revolution* (Malden, MA: Wiley-Blackwell, 2012), 17-18.

⁸ *Code Noir* (1685), in *Slavery, Freedom, and the Law in the Atlantic World: A Brief History with Documents*, ed. Sue Peabody and Keila Grinberg (Boston: Bedford/St. Martins, 2007), 33.

⁹ Governor Machault to the Secretary of State for the Marine, Martinique, 30 August 1704, in *Slavery, Freedom, and the Law in the Atlantic World: A Brief History with Documents*, ed. Sue Peabody and Keila Grinberg (Boston: Bedford/St. Martins, 2007), 36-37.

Governor Phélyppeaux to the Secretary of State for the Marine, 06 April 1713, in *Slavery, Freedom, and the Law in the Atlantic World: A Brief History with Documents*, ed. Sue Peabody and Keila Grinberg (Boston: Bedford/St. Martins, 2007), 39-41.

ordered “all the slaves in our Islands will be baptized and instructed in the Catholic, Apostolic, and Roman religion...”¹⁰ The decree charged all French subjects to observe Sundays and holidays as established by the religion. The French used the Code Noir as a justification for partaking in slavery. Supported by Jesuits, the decree was contingent on the Christian rationale for slavery and used slavery as an opportunity to spread the gospel. In doing so, the French allowed the Africans an opportunity to experience the “true faith”.¹¹

The rift between the Code Noir and lived experience occurred not only in colonies like Saint Domingue but also on the French mainland regarding the legality of slavery. Tensions arose following the issuance of the Code Noir as the decree never explicitly addressed the status of slaves within the French mainland. In 1715, a young female slave found herself placed with nuns during a visit in which she accompanied her mistress to France, highlighting the tensions of legal slavery and Christianity. The conflict between Church and the legality of slavery arose following the persistent refusal of the nuns to return the girl to her mistress. A higher court became involved and heavily debated the issue as there was no formal statement within the Code Noir. The debate ended in the freedom of the girl due to the “Freedom Principle” precedent established in the late sixteenth century.¹² To facilitate this debate if it were to ever occur again, the French government drafted new legislation to address this problem. Known as the Edict of October 1716, the law provided conditions as to where and why slave owners could bring slaves in France while maintaining their slave status. The edict relied on the principle that there were two lawful reasons for bringing slaves to France: to give them religious instruction or teach them a

¹⁰ *Code Noir* (1685), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 50.

¹¹ Peabody, *There Are No Slaves in France*, 19-20.

¹² *Ibid.*, 16.

particular trade.¹³ In order to do so, a slave owner must receive written permission from the colonial governor, provide the names and ages of all the slaves, and register their slaves at the greffe (office of the clerk of the court) in both the colony and province within France. By the eighteenth century, slave owners must also pay deposit, called a caution, to be returned to them upon their return to the colonies with their slaves.¹⁴ This edict effectively established slavery within the boundaries of metropolitan France as it secured the slave status of those traveling with their owners. An extensive analysis of the law concluded that legal traditions supported by Christianity invalidated slavery within the French state and the government never registered the edict nor put it into place.¹⁵ This incident called into question the unity of the colonies and the French state. Slavery, clearly legal in the colonies, and possibly illegal in the French state, divided the two. The discrepancy over slavery could allow for divergence regarding other metropolitan laws in the colonies. The unclear nature of the law and the legality of slavery continued.

The Code Noir defined the legal restrictions put upon both slaves and slave owners. In addition, the Code Noir restricted the activities of free people of color. The law inherently demanded that free people of color remain socially inferior to white citizens. The experiences of Vincent Ogé, however, illustrate that was not always the case. Legislation restricted the rights of free people of color, specifically the right to vote, hold certain professions, and travel. Although few whites could vote either, the law further restrained free people of color. There were some free people of color like Vincent Ogé, however, who circumvented the legal restrictions set forth by the Code

¹³ Ibid.

¹⁴ Ibid., 17.

¹⁵ Ibid., 22.

Noir. Born in Saint Domingue in the 1750s, Vincent Ogé experienced firsthand the ambiguities of the law. The Code Noir and subsequent legislation restricted free men of color and their physical movements in and out of the colonies. The son of a wealthy, prominent, white merchant, Ogé took over his father's business of shipping sugar and coffee to France upon his death.¹⁶ Vincent Ogé flourished economically and became the wealthiest free man of color in Saint Domingue.¹⁷ This afforded him a rather high social standing despite his race.

Ogé's success in business necessitated extended stays in metropolitan France. His clear success and economic power allowed for the "intermittent social redefinition permitted the elite of free colored society".¹⁸ Although legally, as a free man of color, Ogé faced restrictions on his travel, he clearly circumvented these restrictions by visiting metropolitan France. His case clearly exhibits the discrepancy between the prohibitions of the law and lived experience. Ogé's money and resources seemed to grow more important to the government than his race. The Ogé house shipped sugar and coffee to France as a primary mode of income. The French government obviously valued the industry and the wealth it brought to the state. Though technically limited in his actions and physical travel and movement by the law, the power he wielded economically allowed Ogé to essentially act as a white man instead of a free person of color. Despite rules and regulations meant to limit his pursuits and his travel, Ogé spent extended periods of time in metropolitan France. Ogé's wealth afforded him freedom and opportunities not available to most free men of color.

¹⁶ King, *Blue Coat or Powdered Wig*, 152.

¹⁷ *Ibid.*, 258.

¹⁸ *Ibid.*, 161.

When revolution swept France, Ogé became a political player. Throughout 1789 and 1790, he advocated for the rights of the *gens de couleur* (free people of color and recently manumitted slaves) to vote for delegates to the colonial assemblies.¹⁹ Ogé presented his views and those of the other mulatto property owners in Paris. He traveled to Paris in order to promote and push for full civil and political rights for free people of color in Saint Domingue. He considered freedom “made for all men” and tried to persuade the white planters to support his ideas.²⁰ He wanted the white planters to ally with the free men of color and work together to preserve order.

Ultimately, however, the Colonial Committee of the National Assembly, made of whites only and in charge of the colonies, issued a set of equivocal guidelines meant to leave open the issue of whether or not free people of color counted as “persons”.²¹ The Colonial Committee intended the instructions, issued on March 28, 1790, to expand upon the terms of a National Assembly decree from March 8, which gave the colonies the power to determine the status of persons within their boundaries.²² Neither the March 8th decree nor the March 28th decree specifically discussed whether free people of color could vote. The March 8th decree stated “Each colony has the rights to express its wishes regarding the constitution, laws, and administration appropriate to its prosperity and the good fortunes of its inhabitants, as long as it conforms to the general principles that connect the colonies to the metropole”.²³ The March 28th decree elaborated,

¹⁹ Ghachem, *The Old Regime and the Haitian Revolution*, 239.

²⁰ Vincent Ogé, *Motion Made by Vincent Ogé the Younger to the Assembly of Colonists* (1789), in *The French Revolution and Human Rights: A Brief Documentary History*, ed. Lynn Hunt (Boston: Bedford/St. Martins, 1996), 104.

²¹ Ghachem, *The Old Regime and the Haitian Revolution*, 239.

²² *Ibid.*

²³ *Decree of March 8* (1790), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 71.

saying “Immediately after the proclamation and the posting of the decree and the Instructions in each parish, all persons having attained twenty-five years of age and owning property or, failing this, resident in the parish for two years and paying taxes will gather to form a parish assembly”.²⁴ If the colonial officials included free people of color in the term “persons”, then the *gens de couleur* would have the right to vote and participate in local elections. Confusion arose because of the lack of specificity in either decree. The struggle faced by the *gens de couleur* to be considered citizens parallels the ongoing struggle in France for citizenship for the lower estates.

Despite the work of dedicated men like Ogé, many of the colonial officials refused to consider free people of color as “persons”. However, letters and documents from other French officials show not all French thought the same way. Abbé Sieyès, a revolutionary and antagonist of the aristocracy, wrote the pamphlet called “What Is the Third Estate?” in January of 1789. He appeared to support the idea of universal citizenship, saying “Advantages which differentiate citizens from one another lie outside the purview of citizenship. Inequalities of wealth or ability are like the inequalities of age, sex, size, etc. In no way do they detract from the *equality* of citizenship”.²⁵ Likewise, Abbé Grégoire, parish priest and deputy from the clergy of Lorraine, championed the free black cause. In 1789, he wrote “Memoir in Favor of the People of Color or Mixed-Race of Saint Domingue,” where he defended the rights of free people of color. He argued that “The whites, having might on their side, have pronounced unjustly that a darkened

²⁴ *Instructions of March 28 (1790)*, in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 72.

²⁵ Abbé Sieyès, *What Is the Third Estate (1789)*, in *The French Revolution and Human Rights: A Brief Documentary History*, ed. Lynn Hunt (Boston: Bedford/St. Martins, 1996), 69.

skin excludes one from the advantages of society”.²⁶ Continuing through the document, Abbé Grégoire implied that people of color should be allowed to participate in government, and that they would have just grievances if not allowed to do so. Abbé Grégoire’s words aptly demonstrate that not all of the French desired the suppression of people of color.

Despite such support, the administrators of Saint Domingue refused to include the *gens de couleur* in the political process and therefore spurned Ogé’s lobbying efforts.²⁷ When the Colonial Committee of the National Assembly voted on the March 28th decree, Ogé left France secretly. In October 1790, Vincent Ogé returned to Saint Domingue after his extended stay in France. He began to organize an armed revolt aimed at the sugar plantations of the North Province.²⁸ His radical actions stemmed from his anger regarding the March decrees and his belief that his people should be able to vote. Ogé wrote to Count de Peinier, the governor of Saint Domingue, on October 21, 1790 discussing the March 28th decree. Ogé attempted to convince the royal government to apply the reforms he judged had been legislated in Paris. He used the correspondence to express his disappointment with the execution of the decree saying, “we will not remain under the yoke as we have for two centuries. The iron rod that has beaten us down is broken. We call for the enacting of this decree; be prudent therefore, and avoid a crisis that you would not be able to subdue”.²⁹ The “yoke” refers to the legal oppression of people of

²⁶ Abbé Grégoire, *Memoir in Favor of the People of Color or Mixed-Race of Saint Domingue* (1789), in *The French Revolution and Human Rights: A Brief Documentary History*, ed. Lynn Hunt (Boston: Bedford/St. Martins, 1996), 105.

²⁷ Ghachem, *The Old Regime and the Haitian Revolution*, 239.

²⁸ Popkin, *A Concise History of the Haitian Revolution*, 30.

²⁹ Vincent Ogé to the Count de Peinier, Saint Domingue, 21 October 1790, in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 76.

color, both through slavery and through the strict regulations placed upon the free people of color by confusing legislation. The law calls for submission, but Ogé refused to submit. His writing demonstrates his desire to live with the rights of a citizen; Ogé wanted the law to match many of the experiences his wealth afforded him to have. He went on to warn the Count de Peinier, writing, “I have sworn to see the execution of the decree that I worked to obtain, to rebut with force, and finally, to put an end to a prejudice that is as unjust as it is barbaric”.³⁰ The restrictive laws on slaves and the free people of color manifest the “prejudice”. Legislation limited the actions of the *gens de couleur*. They could not hold certain professions, vote, or travel. Although “free”, the *gens de couleur* did not have true freedom. Ogé warned the Count de Peinier of the imminent possibility of an insurrection without government action to rectify the situation. The colonial officials’ blatant dismissal of Ogé’s demands upset him, and he soon began gathering armed supporters in hopes of adding pressure on the government.³¹

In the end, his movement did not attract enough followers. In a letter to Ogé, the leaders of the free people of color in the West expressed their gratitude for his work in France, but refused to join his militant forces. They claim to admire Ogé’s patriotic zeal, but think, “the present circumstances are not favorable” for a successful uprising.³² Ogé’s troops initially defeated the white militia, but eventually came under attack and lost. Ogé fled across the border into Spanish San Domingo. The Spanish turned him in and he stood a speedy trial in Cap Français.³³ Ogé

³⁰ Ibid.

³¹ Ibid.

³² The Free-Colored Leaders of the West to Ogé, Port-au-Prince, 29 October 1790, in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 77.

³³ Popkin, *A Concise History of the Haitian Revolution*, 32.

faced grave punishment for his insurrection. The French colonial government ordered that he be tortured and executed. After his quick trial and conviction, Vincent Ogé was broken on the wheel and killed. Ogé's torture and execution (and the execution of over twenty of his followers) occurred in Le Cap in February 1791.³⁴

The news of Oge's uprising horrified the French National Assembly. By the spring of 1791, the National Assembly recognized the need for legislation concerning free people of color in the colonies. This legislation would allow for some degree of equality to be granted to the free people of color, allowing for them to be treated in ways better than the slaves. The Decree of May 15, 1791 addressed the issue of race and citizenship. The Decree stated "that the presently existing Colonial Assemblies will remain in place, but that the Parish Assemblies and future Colonial Assemblies will admit the people of color born of free fathers and mothers if they otherwise have the required status".³⁵ The National Assembly granted citizenship rights, albeit limited, to free people of color through this decree. The explanation issued soon after stated that the French National Assembly,

attentive to all means of assuring prosperity in the colonies, to ensure that the citizens living there enjoy the advantages of the constitution...,recognizes that local circumstances and the kind of agriculture that brings colonial prosperity appear to require introducing into the colonial constitution several exceptions to the [French Revolution's] general principles.³⁶

³⁴ Jeremy D. Popkin, *Facing Racial Revolution: Eyewitness Accounts of the Haitian Insurrection* (Chicago: University of Chicago Press, 2007), 45.

³⁵ *Law on the Colonies, with an Explanation of the Reasons That Have Determined Its Content* (1791), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 84.

³⁶ *Ibid.*, 85.

The National Assembly acknowledged the need for legislation addressing the rights of free people of color. The Decree of May 15, 1791 granted limited citizenship to the free people of color in the colonies, a significant undertaking.

The Decree of May 15, 1791 coupled with the rebellion led by Ogé to instill fear in the hearts and minds of the colonial leaders. Despite the short-lived nature of Ogé's insurrection, it served as the first armed protest movement against the colonial racial order and therefore worried the white colonists. It echoed the principles of liberty and equality touted by the French National Assembly, which angered slaveholders. News of the Decree of May 15, 1791 reached Saint Domingue in June. The white population vehemently opposed the law, raising concerns of those in charge. As historian Jeremy Popkin notes "General Philibert Blanchelande, the new governor who had arrived in the island in November 1790, had to tell the French government that he would not be able to enforce the law if it was officially transmitted to him".³⁷ The opposition of the white colonists to the decree worried the National Assembly and tensions mounted.

On August 22, 1791, the enslaved people of Saint Domingue expressed their own displeasure with the law and their lived experience; under the leadership of Boukman Dutty they launched a coordinated slave rebellion in the Northern Province that within a month included more than 80,000 individuals.³⁸ The insurrection angered the white colonists who had become accustomed to a certain way of life. In a letter to the absent plantation owner, plantation manager Pierre Mossut blamed the circulation of revolutionary writings for the insurrections, saying more

³⁷ Popkin, *A Concise History of the Haitian Revolution*, 34.

³⁸ Antoine Dalmas, *History of the Revolution of Saint-Domingue* (1814), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 89.

revolts are “to be feared.” Mossut lamented that the slaves “more than ever will be difficult to command”.³⁹ Slaveholders and white planters also feared the French metropolitan government’s apparent support of demands made by Ogé and its possible support of the slaves.⁴⁰ Because of the extreme opposition that the Decree of May 15, 1791 faced in Saint Domingue, the National Assembly acted. Before the National Assembly dissolved, it reversed itself and instead left the white colonists to decide the rights of the free people of color in September of 1791.⁴¹

The continuation of the slave revolution in Saint Domingue forced the French Legislative Assembly to reconsider the question of rights for free people of color yet again. The French in power feared the loss of Saint Domingue as a colony, and therefore grew willing to make concessions. Armand Guy Kersaint, former noble naval officer, argued for the reinstatement of political rights for free people of color and the eventual emancipation of slaves in Saint Domingue. He wrote “The moment has arrived to change the social system of the colonies, to reintegrate into it humankind, and in this greater view will be found the salvation of all the interested parties, justice and utility, interest and glory”.⁴² He appreciated the contribution the slaves made to the economy of Saint Domingue and acknowledges the importance of the colony to France. By giving rights to the free people of color and gradually emancipating the slaves, Kersaint seemed to believe France could keep Saint Domingue. In response to the uprising, the

³⁹ Pierre Mossut to the Marquis de Gallifet, Saint Domingue, 19 September 1791, in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 94.

⁴⁰ Popkin, *Facing Racial Revolution: Eyewitness Accounts of the Haitian Insurrection*, 34.

⁴¹ Ibid.

⁴² Armand Guy Kersaint, *Discussion of Troubles in the Colonies* (1792), in *The French Revolution and Human Rights: A Brief Documentary History*, ed. Lynn Hunt (Boston: Bedford/St. Martin’s, 1996), 113.

National Assembly issued the Law of April 4, 1792. The Law of April 4 decreed “the free blacks and men of color, as well as the white colonists, should enjoy equality in political rights” and “the free blacks and men of color will be admitted as voters in all the parish assemblies and will be eligible for all offices”.⁴³ The National Assembly made its motives clear, prefacing the declaration of equal rights with a statement:

In view of the Assembly’s hope that the love all colonists have for their fatherland will allow them to forget the causes of their conflicts and the various wrongs done to all sides as a consequence, and that they will unreservedly devote themselves to reuniting openly and sincerely, which is the only thing that can stop the troubles that have affected them all and would allow them all to enjoy the advantages of a solid and lasting peace; it decrees that this is a matter of great urgency.⁴⁴

The French National Assembly hoped that granting rights to the free people of color and alluding to a more equal future would secure support and encourage peace in the colony. The French granted legal rights to free people of color in Saint Domingue for pragmatic reasons. To enforce this law within Saint Domingue, the National Assembly appointed two men, Leger Sonthonax and Étienne Polverel. The two men would influence future legislation and policies in Saint Domingue.

The disconnect between France and Saint Domingue grew as the relationship between law and lived experience shifted. Ogé and his followers challenged the law and the established way of life in Saint Domingue by attempting a rebellion. Ogé wanted the recent laws granting rights to people of color enforced in Saint Domingue in order to improve the lived experience of the free people of color. His death brought about legislation that attempted to better the lives of free men of color. A constant battle of push and pull occurred in Saint Domingue between oppressed and

⁴³ *Law of April 4 (1792)*, in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 116.

⁴⁴ *Ibid.*, 115-116.

oppressors. Free people of color advocated for rights, later granted by the National Assembly. White colonists opposed such conciliatory legislation, so the colonies did not enforce it and the National Assembly repealed certain decrees. As the slave revolution continued, the National Assembly decided to grant rights again in order to attempt to maintain control over Saint Domingue. As the law constantly changed, the white colonists continued to oppress slaves and free people of color. A discrepancy between law and lived experience clearly existed.

Conclusion

The Code Noir, and subsequent legislation, outlined legal behavior for slaves, free people of color, and whites. It clearly intended for slaves to remain subordinate to their masters, granting slave owners myriad powers over their slaves. It also provided for the protection of slaves in some circumstances and provided for the religious education of slaves. However, slave owners used these “protective” clauses to justify slavery and claim the humane treatment of their slaves and other people of color.

Ogé, an extremely wealthy and successful businessman, experienced firsthand the effect of the Code Noir on his legal rights as a citizen, although his immense wealth gave him power to circumvent the strict regulations. Ogé’s racial status limited his political rights, but his social status increased with his wealth. His economic success provided him with enough money so that others overlooked his racial status at times, yet whites never truly considered him an equal. When he led an insurrection against the white elite in Saint Domingue, fighting for the rights of free people of color, the French tortured and executed him. Ogé’s case clearly demonstrates money’s power to overshadow the efficacy of racially motivated law. It also, however, shows how that law can be used to silence those who question social norms, in this case through the

execution of a free man of color who demanded application of the March 28th, 1790 law. His case aptly demonstrates the constantly shifting boundaries between races and the discrepancy between law and lived experience.

The outbreak of the French Revolution and Ogé's insurrection challenged the people of Saint Domingue, increasing tensions and prompting questions regarding citizenship. The free people of color embodied a "middle class" in Saint Domingue. Their social status remained uncertain as law continued to disconnect with reality. While free and considered superior to slaves, the free people of color remained inferior to the white citizens of the colony. While the white citizens of Saint Domingue hoped for autonomy from the French state, free people of color searched for equality and rights as citizens.

Slave Revolution in August 1791, more commonly referred to as the Haitian Revolution, further complicated matters. Free people of color and slaves demanded rights that most white colonists seemed unwilling to give. The gap between law and lived experience continued to wax and wane, and people began to notice.

CHAPTER III

THE TERROR

The French Legislative Assembly's decree of April 4, 1792 was first heard of in Saint Domingue in late May 1792. The Colonial Assembly, although hesitant to do so, was obligated to renounce their hostility towards the idea of free men of color obtaining equality. Conflict within Cap-François between the white assemblymen and free men of color forced the assemblymen to accept this decree but still harnessed hatred for the free men of color.⁴⁵ Hundreds of thousands of enslaved Saint Domingians involved in the Haitian Revolution created much disarray, repeatedly defeating French metropolitan troops due to the French tactic of separation; the French troops would separate upon landing in the colony, allowing for slave troops to easily ambush them. Governor Blanchelande, leader of Saint-Domingue at the start of the slave uprisings and leader of the French military forces within Saint-Domingue, waited for the arrival of the Legislative Assembly-appointed civil commissioners, Sonthonax and Polverel, and the new forces which would help put down the slave revolt.

The Terror, lasted from September 1793-July 1794 and like previous time periods, saw a discrepancy between law and lived experience. Slaves throughout Saint Domingue revolted, causing France to repeatedly send troops in hopes to put down the uprisings. Upon the arrival of the Legislative Assembly-appointed civil commissioners, society in Saint Domingue saw what was legislatively, a drastic change. This change was not evident, however, in practice and applicability of the law. Following the Law of April 4, 1792, white colonists were outraged at the

⁴⁵ Popkin, *A Concise History of the Haitian Revolution*, 51.

idea of being considered equal with free people of color. To show this outrage, many revolted, causing the civil commissioners, Leger Sonthonax and Étienne Polverel, sent to enforce the law, much trouble in doing their duty. Following the French declaration of war on the British and Spanish, Sonthonax and Polverel understood the necessity of gaining slave support to defeat the two warring nations and on June 20, 1793, granted emancipation the slaves who joined the military. Following this proclamation, various decrees broadening emancipation would ultimately evolve into the Decree of General Liberty, a law formally granting the freedom of all slaves in the colony of Saint Domingue. The Decree of General Liberty, as well as the documents leading up to it, will serve as case studies demonstrating the discrepancy between law and lived experience.

The new civil commissioners arrived in September 1792 with the official instructions to enforce the law of April 4, 1792. The two men “publicly swore not do anything to undermine the institution of slavery”.⁴⁶ Sonthonax and Polverel were not to emancipate the slaves by any means, but to enforce the social equality granted to the free people of color. In their first act, the two men dissolved the all-white Colonial Assembly and put in place a new assembly with half of the members being free people of color. Another task for the civil commissioners involved putting down the continuous insurrection-taking place in the Northern Province. Sonthonax, the more ambitious of the two, decided to partner with free men of color to end insurrection caused by both slaves and white citizens. In December 1792, Sonthonax authorized free men of color to form their own militias, operating independently of the French militia.⁴⁷ In doing so, Sonthonax illustrated his commitment the notion that free men of color were equal as whites. Polverel

⁴⁶ Ibid., 52.

⁴⁷ Ibid., 53.

aligned with free men of color in the West Province as well, resulting in victories in both regions; “Thousands of blacks who had been living in freedom for a year and a half fell back under white control”.⁴⁸ Due to resource scarcity, the commissioners soon found themselves not capable of completing defeating the slave insurrection. This came at a time when a new threat emerged.

France declared war on Great Britain and Spain in early February 1793, causing Saint Domingue to be attacked from both Jamaica and Santo Domingo in the Caribbean. Wanting to maintain slavery within the colony, white colonists aided British troops in the occupation of the island with the hopes that slavery would be upheld.⁴⁹ With this in mind; Sonthonax and Polverel shifted their focus from ending the slave insurrection to crushing white resistance to France. This was accomplished in April 1793 when the two commissioners expelled the cities Port-Au-Prince and Jacmel of white resistance.⁵⁰ With the majority of white resistance put down, Sonthonax and Polverel still needed to end the slave insurrection before they advanced on British and Spanish troops. The two commissioners understood the need to win over the slave population and aid them in their fight, but were conflicted in how to do so without proclaiming emancipation. Due to the emergency on hand, on May 5, 1793, Sonthonax and Polverel reinstated the Code Noir, originally decreed in 1685 with the hope that although the clauses protecting slaves from harsh punishments were originally ignored, they would be vehemently enforced under the supervision of Sonthonax and Polverel, essentially shrinking the large gap that was law and lived experience. This ignited a sense of celebration within the slaves. Many felt that the civil commissioners were

⁴⁸ Ibid., 54.

⁴⁹ Ibid.

⁵⁰ Ibid., 55.

protecting their rights, rights that were afforded to them by the Code Noir. It is interesting to note that the slaves were made aware of these rights as Sonthonax and Polverel had the Code Noir translated into Creole and read aloud to the slaves. The slaves had been treated, in some ways, humane, differing from the pre-revolutionary treatment of the slaves, as they were now made aware of their protections and legal boundaries.

Sonthonax and Polverel felt their reinstatement of the Code Noir would be sufficient in appeasing the slaves in the Western and Southern provinces as they swore the law would be applied as stated. In the North, however, insurrection leaders Jean-Francois and Biassou were partnering with the Spanish. The Spanish were adamant about capturing Saint Domingue about openly expressed their willingness to provide emancipation if triumphant.⁵¹ Both Jean-Francois and Biassou pledged their loyalty to the Spanish King hoping to gain resources to expel French forces.

Nearly nine months after the arrival of the commissioners, free men of color still faced hostility although granted with equality nearly a year earlier. The commissioners themselves met with opposition in the form of the new governor, General Francois-Thomas Galbuad. On May 7, 1793, the two became aware of the arrival of Galbuad, a hero in the French defeat of the Austro-Prussian invasion in 1792.⁵² Galbuad, a slave owner himself, worried the commissioners as they felt he would be unlikely to negotiate with the northern revolt. Galbaud proved to be welcomed by the white population in Saint Domingue and soon began to enact his own ideas for the island, against the instruction of Sonthonax and Polverel to not do so. The commissioners accused

⁵¹ Ibid.

⁵² Ibid., 56.

Galbaud of undermining their authority and he agreed to be sent back to France, much to the delight of the free people of color. The sailors on the ship that Galbaud was to be sent back on convinced him to lead them in their attack against the free people of color and the commissioners, effectively resorting back to the Saint Domingue before the Law of April 4, 1792. Galbaud lead the sailors and forces in an attack on the commissioners' headquarters on June 20, 1793. Although driven back by free people of color, Galbaud took over the arsenal of the city and prepared to make a renewed attack on the next morning.⁵³

Sonthonax and Polverel realized that they needed more soldiers and more supporters to defeat Galbaud. The institution of slavery, which they island colony was founded upon, would soon drastically change as Galbaud's attack on Sonthonax and Polverel would bring about a major change in Saint Domingue: emancipation. Emancipation would be put into place by law but not by practice. The first proclamation of emancipation on June 20, 1793 came to fruition as a military strategy. On June 20th, they called upon the thousands of black slaves, who had previously remained neutral, to join their side against Galbaud. In order to convince the slaves to join forces with them, Sonthonax and Polverel promised them their freedom. As Popkin explains, "this offer fell well short of an emancipation proclamation: it applied only to men of military age, and slaves who responded had to agree to remain in the army as long as the war in the colony continued and even to fight against the black insurgency".⁵⁴ Sonthonax and Polverel swore the volunteers into their army, calling them free men and promising to consider them citizens of republican France.

⁵³ Ibid., 57.

⁵⁴ Ibid.

The monumental decision of the commissioners to offer freedom in exchange for military service signaled the first instance of France's revolutionary government renouncing slavery.⁵⁵ While they would be considered citizens, the whites would not see them as such, illustrating yet another gap between law and lived experience. Due to racial prejudices, the newly freed slaves, or "citizens of 20 June" had very little rights afforded to them that would consider them "equal" with white citizens.⁵⁶ Chaos and general unrest ensued as white sailors and black slaves looted and burned the city of Le Cap. Pressure from slave insurgent leaders in the Northern Province such as Toussaint L'Ouverture, Jean-Francois, and Biassou to broaden the offer of emancipation increased. The mounting tensions of the situation forced Sonthonax and Polverel to give in and widen the parameters of emancipation. The commissioners agreed to free the wives and children of black men who had taken them up on their previous offer, and therefore made a new emancipation offer on July 11th, 1793.⁵⁷ Eventually, the commissioners came to believe that only general emancipation would win the support of the blacks in the North Province of Saint Domingue. On August 29th, 1793, Sonthonax announced the "Decree of General Liberty", which stated "all the negres and mixed blood people currently in slavery are declared free to enjoy all the rights of French citizens".⁵⁸

Sonthonax's decree depicted a dramatic step in the emancipation movement within Saint Domingue. The law would create a sense of hypocrisy within Saint Domingue and ultimately

⁵⁵ Ibid., 58.

⁵⁶ Ibid.

⁵⁷ Ibid., 59.

⁵⁸ Léger Félicité Sonthonax, *Decree of General Liberty* (1793), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 123.

wedge more of a gap between law and lived experience. Slavery had been abolished in a location where it had been the basis and foundation of society. Although Sonthonax announced that the principles of the Declaration of the Rights of Man would from now on apply in Saint Domingue, the “Decree of General Liberty” did not truly grant emancipation in both reality and in application. The intention of Sonthonax remains unclear as later in the decree, he states, “the negres currently working on the plantations of their former masters are required to remain there. They will work in agriculture”.⁵⁹ Although they had been granted freedom, the slaves of Saint Domingue must remain on their plantations and continue to work for their “former” masters. Where possible, the black population deserted their plantations, but in areas controlled by Spain and Britain, the emancipation decrees had no effect.⁶⁰ Although the law declared them free, their lived experience remained unchanged from the conditions of slavery. Sonthonax’s application of the decree essentially bound the slaves to the way of life prior to revolution. In this way, life did not change for the recently freed slaves. Black women opposed the new decree as it only granted them two-thirds of the wages received by men.⁶¹ Women were inherently inferior to men, especially those of color. There was a “natural inequality between women and men” as put by Polverel.⁶²

Major changes were to come not only in Saint Domingue but the French Empire as well. These changes would inevitably cause the gap between law and lived experience to come into question. Following his Decree of General Liberty, Sonthonax oversaw an electoral assembly within Saint

⁵⁹ Ibid., 124.

⁶⁰ Popkin, *A Concise History of the Haitian Revolution*, 64.

⁶¹ Ibid., 60.

⁶² Ibid.

Domingue. The assembly intended to elect representatives to travel to Paris and confront the National Convention on the issue of slavery throughout the French Empire. The men elected, Jean-Baptiste Mills, Jean-Baptiste Belley, and Louis Dufay, were to present the National Convention with the news of the decrees issued by Sonthonax and Polverel.⁶³ The three representatives presented themselves as representatives of Saint Domingue's North Province on February 2. Dufay, a white colonist, argued that in order for Saint Domingue to stay within rule of France, the National Convention must abolish slavery. Dufay never mentioned the limitations Sonthonax issued as many officers within the convention highlighted the necessity of abolition to epitomize France as a nation founded upon human rights. The National Convention, on February 4, 1794, issued a decree declaring the "abolition of Negro slavery in all the colonies; in consequence it decrees that all men, without distinction of color, residing in the colonies, are French citizens and will enjoy all the rights assured by the constitution".⁶⁴ The National Convention abolished all slavery within the French colonies, surprising many. This marked the first time in history that the national government of a trans-Atlantic empire ended the institution upon which the economies of its American colonies depended.⁶⁵ With the establishment of liberty in all French colonies, the slaves believed that equality would accompany their freedom. This is not the case, as illustrated by Polverel and his "Plantation Policies."

Back in Saint Domingue, regions under Polverel's control saw the abandonment of plantations by their owners and taken over by the state. Polverel instituted regulations that, despite the de

⁶³ Dubois and Garrigus, *Slave Revolution in the Caribbean 1789-1804*, 129.

⁶⁴ *Decree of the National Convention of February 4, 1794, Abolishing Slavery in All the Colonies* (1794) in *The French Revolution and Human Rights: A Brief Documentary History*, ed. Lynn Hunt (Boston: Bedford/St. Martins, 1996), 116.

⁶⁵ Popkin, *A Concise History of the Haitian Revolution*, 67.

jure freedom granted to the former slaves, intends to dictate the possibilities for former slaves and their way of life, illustrating the discrepancy between law and lived experience. Polverel wrote a document three months after the National Convention abolished slavery within the French colonies, May 1794, in order to explain his plan and justify his decisions. The document stated:

If there was vagrancy, if some of those who did stay on the plantation did less work, if almost all field workers believed they could rest on Saturday as well as on Sunday, this is because they wanted to try out their freedom, so to speak, to assure themselves that it was not a dream and that they were really in charge of their own work and of coming and going as they pleased. We know then what we can fear or hope for from the new freemen. In the initial excitement of their new freedom, they committed errors, not crimes.⁶⁶

He acknowledges that some of the newly freed individuals did not remain on their plantations as instructed. The legislation intended for a de facto system of plantation work to remain in place, but a few former slaves decided to test their freedom. According to Polverel, those that actually actively pursued their freedom by leaving the plantation or working at their leisure simply “committed errors”.⁶⁷ Polverel promised to help the former slaves understand that remaining on the plantations is best for them, when in actuality, it would be best for France as the economic gain would be constant and ongoing.

Polverel’s regulations suggest the divergence between law and lived experience. He addressed the former slaves directly, telling them that they must work in order to make money for food, clothes, and other necessities. He also intimated that, if they did not work enough or at a high

⁶⁶ *The Plantation Policies of Étienne Polverel (1794)*, in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 139.

⁶⁷ *Ibid.*

standard, the plantation owner would replace them.⁶⁸ Polverel belittled the former cultivators, saying:

Today some of you are convinced that, because you have been freed, because measures are being taken to improve your condition, you must have larger gardens than you had when you were slaves. But I tell you that these small gardens were absolutely right and essential for you then. Today, however, they are unnecessary, and there would be no drawbacks or unfairness in taking them away.⁶⁹

While the former slaves have their freedom legally, in reality they remain tied to the plantation, working long hours without any real choice in the matter. What was originally fair under the institution of slavery, slaves obtaining small gardens, is now more than fair as there is no law that suggest they have larger gardens than before. This principle, in essence, is key when examining law and lived experience as it suggests that the newly freed citizens are not equal.

Even if the freed slaves themselves felt free, white managers, overseers, and military officials did not view them as such. In a letter to Polverel, the manager of a plantation demonstrated the unchanging values from slavery to emancipation. He wrote: “I am sending you two African women who refused to work at night after the decision of the plantation’s administrative council...I therefore ask you to punish them as an example”.⁷⁰ Clearly, a difference between life as a slave and life as a free person did not exist for these two women. They attempted to assert their freedom and their choices, but the manager sent them to be punished for disobeying. If the women truly had their freedom, interactions such as this would not occur. A disconnect obviously exists between law and lived experience for newly freed former slaves.

⁶⁸ Ibid., 140-141.

⁶⁹ Ibid., 141.

⁷⁰ Lacolle to Étienne Polverel, 20 March 1794, in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 143.

Conclusion

The Terror, although a short period of time, vividly illustrated the discrepancy between the law and lived and experience from 1793-1794. The Decree of General Liberty, issued by Sonthonax in August of 1793, declared liberty to all slaves in Saint Domingue, as an expansion of other emancipatory measures starting on June 20, 1793. These slaves, however, were not permitted to leave their plantations and were forced to maintain the lives that they previously were subject to. Polverel, in areas of his control, made sure the “citizens of 20 June” understood their place in society, emphasizing that they were not equal by any means. In the laws passed, the slaves were free but this was not in practice, an occurring them throughout the Haitian Revolution.

As the fighting in Saint Domingue between slaves, anciens libres (free people of color before the 1793 abolition) whites, and France and Britain and Spain continued, a new governing elite developed. Black military officers such as Toussaint L’ouverture, composed the new governing elite, and all affirmed support for full emancipation and the total elimination of slavery. Despite their supposed resolution to the elimination of slavery, the ruling elite remained convinced of the importance and necessity of the plantation system to the economy of Saint Domingue. Those in charge remained opposed to slavery in name, but believed in the plantation system and thus could not be considered opposed to slavery in practice. Toussaint L’ouverture, the great revolutionary leader, would hold similar beliefs when he gained power during the next era of the French Revolution known as The Directory.

CHAPTER IV

THE DIRECTORY

The Directory (1795 to 1799) provided a conservative response to the actions that took place years prior in France and Saint Domingue. This response resulted in the restriction of the civil liberties granted to the common people during the Terror. The Directory did, however, uphold the Committee of Public Safety's nominal abolition of slavery and integration within metropolitan France. Nonetheless, the fear of the reinstatement of slavery permeated life in Saint Domingue throughout the period of the Directory. Bonaparte's increasingly undemocratic, dictatorial regime worried the newly freed members of the colony of Saint Domingue. The gap between law and lived experience clearly existed throughout the period of the Directory, seen in Toussaint L'Ouverture's actions in the Villatte Affair and the border town of Varettes and in the Council of Five Hundred's 1798 law. Toussaint L'Ouverture advocated for the continued freedom of the people of Saint Domingue, yet his policies and letters delineated restrictions on said freedom. The Council of Five Hundred tried to advance the integration and application of French law to the colony of Saint Domingue further by drafting the 1798 Law on the Colonies. By doing so, the Council of Five Hundred made apparent the ideal that all French constitutions and laws should apply to the colonies of France. This law, like Toussaint L'Ouverture's proclamations and letters, however, ultimately limited the freedoms of blacks within Saint Domingue even further, allowing for an uprising within Saint Domingue to take place.

Toussaint L'Ouverture, a former slave and black man, came to lead Saint Domingue in the period of the Directory. As Toussaint L'Ouverture gained power in Saint Domingue, he further

developed his philosophies and policies regarding former slaves, known as cultivateurs, and free people of color in the French colony. In Toussaint L'Ouverture's first proclamation in August 1793, he championed the rights of the oppressed in Saint Domingue arguing:

Remember the brave Ogé, dear comrades, who was killed for having defended the cause of liberty! Yes, he died: but those who were his judges are now his defenders. I am Toussaint L'Ouverture; perhaps my name has made itself known to you. You know, brothers, that I have undertaken this vengeance, and that I want liberty and equality to reign in St-Domingue.⁷¹

Toussaint L'Ouverture made promises to avenge the wrongs done to cultivateurs and people of color in the past. He wanted the people of Saint Domingue to join him and made promises to inspire them. On the same day, Sonthonax legislated general liberty in Saint Domingue.

In May of 1794, Toussaint L'Ouverture joined the French in the war against Spain and Britain. He believed the French offered the best path to freedom and claimed the Spanish had ulterior motives for allying with him. Toussaint L'Ouverture speaks ill of the Spanish, saying:

a later experience opened my eyes to these perfidious protectors, and having understood their villainous deceit, I saw clearly that they intended to make us slaughter one another in order to diminish our numbers so as to overwhelm the survivors and reenslave them.⁷²

Toussaint L'Ouverture decided to join the French in order to assure the freedom of his people. He feared reenslavement and believed the Spanish would attempt to reenslave the people of Saint Domingue once war ended. While the people of Saint Domingue legally had freedom, they lived with the worry either the French or the Spanish would reenslave them. The law proclaimed freedom, but lived experience led the people to fear the future. Therefore, leaders of the

⁷¹ Toussaint L'Ouverture, *Proclamation* (1793), in *Toussaint L'Ouverture: The Haitian Revolution*, ed. Jean-Bertrand Aristide (London: Verso, 2008), 1.

⁷² Toussaint L'Ouverture to General Laveaux, 18 May 1794, in *Toussaint L'Ouverture*, ed. George F. Tyson, Jr. (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1973), 29-30.

revolution, like Toussaint L'Ouverture, shifted allegiances based on predictions of future policies. Toussaint L'Ouverture's decision to join the French served him well, and he soon began rising in the ranks of the Army and gaining power.

Toussaint L'Ouverture proclaimed his adherence and obedience to the French laws as they applied to Saint Dominue. He argued for the necessity of laws and for the use of punishment for those who broke the law. Toussaint L'Ouverture demonstrated his support of French authority when General Villatte, a free colored man in Saint Domingue, staged a military coup in Cap Français, declaring himself governor of the island. Villatte opposed the rule of the white Laveaux and resented Laveaux's support of Toussaint L'Ouverture.⁷³ In March of 1796 after men of color arrested General Laveaux in what came to be known as the Villatte Affair, Toussaint L'Ouverture wrote: "Who dared bring a heinous and sacrilegious hand upon the representatives of the Nation? Men of color; it was quite necessary then that I warn my subordinates to suspect these men".⁷⁴ Toussaint L'Ouverture seemed to put down the Villatte Affair because anciens libres tried to oust Laveaux who seemed to support cultivateurs. As Toussaint L'Ouverture advanced in the Army, the number of his subordinates increased and included men of all colors in Saint Domingue. The Villatte Affair allowed Toussaint L'Ouverture to prove his loyalty to the French and uphold French law. His proposition of racial profiling and his demonizing of men of color however, suggested his bias against men of color. To refute such claims, Toussaint L'Ouverture went on to assure his followers of his fairness, asserting:

No, my brothers, I am not prejudiced against any particular class; I know that there are

⁷³ Popkin, *A Concise History of the Haitian Revolution*, 76-78.

⁷⁴ Toussaint L'Ouverture, *Proclamation on The Villate Affair* (1795), in *Toussaint L'Ouverture*, ed. George F. Tyson, Jr. (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1973), 32.

men of color who are estimable and virtuous, irreproachable and I have the great satisfaction of having some of them near me...I cherish all virtuous men; I owe them protection, and they shall always obtain it, when they make themselves worthy of it.⁷⁵

Toussaint L'Ouverture claimed he did not favor one racial group over another. He made this statement to proclaim his fairness as a leader and to smooth over allegations and instances of prejudice. Toussaint L'Ouverture proclaimed the justice of his rule, recalling examples of honorable men. However, Toussaint L'Ouverture's actions against former gens de couleur, now known as anciens libres, told a different story. Toussaint L'Ouverture, a black man and former slave, demonstrated prejudice against previously privileged people of color. The law had favored people of color over blacks for years, and the history of slavery exacerbated that. The lived experience of people of color differed from that of the cultivateurs for years. Now that all had nominal freedom, Toussaint L'Ouverture seemed to want the lived experience of cultivateurs to improve over that of the people of color. Tension between the two groups existed before this time, and can be seen when people of color refused to support the emancipation of the slaves. While previously, people of color had the legal advantage because they had freedom, cultivateurs experienced an increase in status under Toussaint L'Ouverture. He favored former slaves over people of color, although the law technically held both groups equal.

Another example of Toussaint L'Ouverture's enforcing a gap between the law and lived experience can be seen in how he handled the territories close to the border with Santo Domingo. Toussaint L'Ouverture's actions in Varettes, however, seemed to counter the claims that he worked to support cultivateurs at all costs. The Treaty of Basel ended the war between France and Spain, with Spain ceding eastern Hispaniola to France in July 1795. Toussaint L'Ouverture

⁷⁵ Ibid.

continued to move up in the ranks, becoming brigadier general of the French Army.⁷⁶ As Toussaint L'Ouverture's power grew, he made legal decisions for the colony that came under his control. On March 22, 1795, Toussaint L'Ouverture wrote to the people of Varettes, near the border. He outlined his orders, stating:

All farmers, twenty-four hours after the publication of the present proclamation, shall return to pursue all forms of agricultural labour in the plantations to which they are dependent, except those contiguous with enemy territory. The cultivators of plantations bordering the enemy, if they are not soldiers, will report to other plantations to participate in labour.⁷⁷

Although he despised slavery, Toussaint L'Ouverture recognized the need for the workers to return to their farms and plantations in order to keep the economy of Saint Domingue running. He went on to proclaim, "work is necessary, it is a virtue. It is the general good of the state. Every lazy and errant man will be arrested to be punished by the law".⁷⁸ Although Toussaint L'Ouverture promised to be different from his predecessors in charge of Saint Domingue, he embraced, and enforced via policy and law, the return of his people to the plantations that oppressed them for so long.

Despite the fact that the cultivateurs and free people of color had legal freedom, Toussaint L'Ouverture and the colonial government still limited their actions and wanted them to continue work on the plantations. Toussaint L'Ouverture enforced work as law and wanted the old economy to continue to grow and meet success, yet he refused to return to a system of slavery. He valued the concept of freedom and made promises to his followers that he would defend their

⁷⁶ Jean- Bertrand Aristide, *Toussaint L'Ouverture: The Haitian Revolution* (London: Verso, 2008), xxxix.

⁷⁷ Toussaint L'Ouverture, *Toussaint L'Ouverture To His Brothers And Sisters In Varettes* (1795), in *Toussaint L'Ouverture: The Haitian Revolution*, ed. Jean-Bertrand Aristide (London: Verso, 2008), 14.

⁷⁸ *Ibid.*, 15.

freedom, yet he also valued economic productivity and the success of Saint Domingue. His support of extra laws and regulations mandating the return to plantations served practical, pragmatic needs, while his defense of slavery demonstrated idealism. As the laws and regulations governing cultivateurs and people of color continued to change and shift, legal boundaries became unclear. Although legally free, legislation placed restrictions on the lives of cultivateurs and other people of color that in practice resembled slavery.

As the French Revolution continued, members of the Directory began criticizing the black leaders of Saint Domingue. They began to portray the situation in Saint Domingue as chaotic, violent, and tyrannical.⁷⁹ They did not view the people of Saint Domingue as their equals, yet the law proclaimed their equality. Once again the gap between law and lived experience emerged. This shift concerned Toussaint L'Ouverture, especially when he came under attack from members of the French assembly. Toussaint L'Ouverture asserted his dedication to the maintenance of freedom for his people. When white planters in Saint Domingue and some politicians in France began calling for the reinstatement of slavery, Toussaint L'Ouverture included his remarks in the letter sent to the French Directory explaining his opposition. He wrote: "But the attempts on that liberty which the colonists propose are all the more to be feared because it is with the veil of patriotism that they cover their detestable plans".⁸⁰ Toussaint L'Ouverture used the term patriotism to reinforce the connection between Saint Domingue and France. He believed the French argued for the reinstatement of forced labor for the good of the colony and country and became well aware of the fact that planters, white and mixed-race,

⁷⁹ Laurent Dubois and John D. Garrigus, *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, 147.

⁸⁰ Toussaint L'Ouverture to the French Directory, 5 November 1797, in *Toussaint L'Ouverture*, ed. George F. Tyson, Jr. (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1973), 43-45.

believed it would be economically beneficial. It would be economically beneficial for both Saint Domingue and France to reinstate slavery because it gives the planters access to obedient, free labor. Although the gap between law and society existed, Toussaint L'Ouverture understood the people had nominal freedom, which granted them protections they did not have as slaves.

Toussaint L'Ouverture recognized the salience of legal freedom for his society, even though it occurred essentially in name only. He did not want to see his people reenslaved, and he continued to argue against the reinstatement of slavery, writing: "Already, perfidious emissaries have crept among us to foment destruction at the hands of liberticides. They will not succeed, this I swear by all that is most sacred in liberty".⁸¹ Toussaint L'Ouverture promised to defend the freedom of the former slaves despite his supposed loyalty to the French government. He called the French politicians who wished to reinstate slavery "liberticides" in order to enforce the idea that they killed freedom. They threatened the liberty of the people of Saint Domingue, especially the cultivateurs. Although Toussaint L'Ouverture enforced a lived experience similar to slavery, he adamantly opposed the return to legal slavery.

While Toussaint L'Ouverture was creating gap between law and lived experience in Saint Domingue, the metropolitan Council of Five Hundred was doing the same thing through their legislation on Saint Domingue. In 1798, the Council of the Five Hundred passed a law to govern the people of Saint Domingue. The Council of Five Hundred, one of two legislative bodies in France, intended to clarify and solidify previous colonial policies such as the plantation policies of Sonthonax and Polverel and the multiple stages of abolition decreed by the French government. In Title II: Of the Status and the Rights of Citizens, the Council of the Five Hundred declared:

⁸¹ Ibid.

Black or colored individuals who were taken from their homelands and transported to the colonies are not considered foreigners; they enjoy the same rights as an individual born in French territory as long as they work as cultivators, serve in the army, or exercise a profession or trade.⁸²

The legislation claimed that black or colored individuals had the same rights as whites, yet restricted their actions and placed limitations on their choices, including where they could live, when they could move, and what jobs they could hold. These restrictions hold remarkable similarities to those of the Liberal Revolution, despite the drastic change in leadership and legislation. Though legally free, the cultivateurs and people of color in Saint Domingue faced restrictions.

The Council of Five Hundred went on to discuss vagrancy. The law considered a vagrant “any person who cannot provide proof of a domicile or a known status” and ordered that “any individual convicted of vagrancy by a court of law will be stripped of the rights granted in the previous article, until they have once again taken up cultivation, a trade, or a profession”.⁸³ The law clearly restricted the people of color in Saint Domingue, as they faced more difficulties providing “proof of a domicile” or a “known status”. They typically had not owned their own land as slaves and lived on the plantations, which complicated the issue. The law required them to define where they lived, often still on plantations. They did not have the freedom to go where they wanted when they wanted, and they faced punishments for doing so.

The legislation also placed limits on the right to vote. The law required each citizen that wanted

⁸² *Law on the Colonies* (1798), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 154.

⁸³ *Ibid.*, 155.

to vote to “pay a personal contribution equal to three days of agricultural work”.⁸⁴ Although slavery no longer existed in the colony, many in Saint Domingue faced such restrictions that impeded freedom. It would have been almost impossible for any cultivateurs to meet this requirement and thus created a gap between the law and lived experience. This provision created a gap between the law- the promise of the vote- and lived experience- restrictions that made it quite unlikely that the vast majority of the population could ever exercise the freedom. Legislation proclaimed all in Saint Domingue free, yet blacks faced added restrictions and limitations and those in charge (including Toussaint L’Ouverture) continued to encourage their return to the plantations in order to stimulate the economy.

In February 1798, just weeks after the Council of the Five Hundred passed the Law on the Colonies, Saint Domingue celebrated the fourth anniversary of the abolition of slavery. Étienne Laveaux, governor of Saint Domingue, gave a speech addressing the anniversary, calling it “one of the most illustrious days of our immortal revolution”.⁸⁵ Laveaux spoke of abolition in ideal terms. He praised the abolition of slavery and believed it “conquered for the *human race*, or rather it created, though a single strong and precise idea, a million new beings and in so doing expanded the family of man”.⁸⁶ His rhetoric and belief in the power of the law glosses over the fact that most cultivateurs continued to face conditions similar to life in slavery. A clear discrepancy existed between the law and the day-to-day experiences of the people, but Laveaux praised abolition and the law. The irony, of course, exists in the fact that just weeks before this

⁸⁴ Ibid.

⁸⁵ Étienne Laveaux, *A Celebration of the Anniversary of Abolition* (1798), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 156.

⁸⁶ Ibid.

speech, the French government issued a law that severely limited the lives of people of color and specifically addressed color and race. This explains why Laveaux comments on the mass of the colonial population, saying:

The wrenching memory of the abject of slavery that darkened our colonies is now far, far from us. Let us fully celebrate this national contribution...In our speeches and our deliberations, may we hear talk of only the *mass of the colonial population* and not of this or that color.⁸⁷

Despite his rhetoric, the slavery that occurred so long ago in the mind of Laveaux never really left Saint Domingue. While the law proclaims the liberty of the people, their lived experiences do not reflect such liberty; a gap separated the law from lived experience. Though the cultivateurs legally possessed freedom, they remained under strict rules and regulations. Laveaux seemed to focus on the concept of abolition as an ideal and not as a practice. While de jure slavery ended with abolition, de facto slavery persisted in Saint Domingue.

The gap between the law and lived experience appeared yet again at the end of the century. Toussaint L'Ouverture made moves to seize power in 1798, while also attempting to appear loyal to his superiors. He expelled Sonthonax in May of 1798, and wrote an explanation of his actions. Toussaint L'Ouverture claimed Sonthonax "gorged himself lavishly and insulted the public misery" and called him an "insatiable monster" that "bled the colony anew".⁸⁸ According to Toussaint L'Ouverture, Sonthonax wanted Saint Domingue to declare independence from France and he wanted Toussaint L'Ouverture to murder the white Europeans. Toussaint L'Ouverture used the supposed atrocities committed by Sonthonax to prove his loyalty to

⁸⁷ Ibid.

⁸⁸ Toussaint L'Ouverture to General Laveaux, 22 May 1798, in *Toussaint L'Ouverture*, ed. George F. Tyson, Jr. (Englewood Cliffs, NJ: Prentice-Hall, Inc., 1973), 46-49.

Laveaux and the French, separating law from lived experience. He claimed Sonthonax suggested the independence of Saint Domingue and that Toussaint L'Ouverture himself refused. By expelling Sonthonax, Toussaint L'Ouverture assured the French of his loyalty and his adherence to the law. Meanwhile, Toussaint L'Ouverture made further plans to gain power. As the year 1798 progressed, Toussaint L'Ouverture consolidated power, a process made possible by his gradual elimination of his competitors. He took over Port-au-Prince in April and expelled another French commissioner, Hédouville, from the colony in October.⁸⁹ His actions and lived experience raised suspicions of an imminent declaration of independence, a drastic legal change.

The fear of the reinstatement of slavery pervaded life in Saint Domingue throughout the Directory era. Napoleon Bonaparte's increasingly authoritarian reign only served to further worry the newly freed members of the colony of Saint Domingue. Toussaint L'Ouverture had vowed that slavery would not return to Saint Domingue. In order to placate the worries and suspicions of blacks in Saint Domingue, Bonaparte wrote a letter in late 1799. In the letter, Napoleon promised "the SACRED principles of the freedom and equality of blacks will NEVER SUFFER...the least attack or modification".⁹⁰ He went on to say: "If there are ill-intentioned men in the colony, if there are those who still have relations with enemy powers, remember BRAVE BLACKS, that the French people alone recognize your freedom and the equality of your rights".⁹¹ Napoleon's words contradicted the legislation in Saint Domingue that limited the true freedom of the people. The multiple laws and regulations that governed Saint Domingue explicitly modified the freedom and equality of cultivateurs and people of color. Despite Napoleon's promises

⁸⁹ Aristide, *Toussaint L'Ouverture: The Haitian Revolution*, xl.

⁹⁰ Napoleon Bonaparte, *Bonaparte's Letter to St-Domingue* (1799), in *Toussaint L'Ouverture: The Haitian Revolution*, ed. Jean-Bertrand Aristide (London: Verso, 2008), 37.

⁹¹ *Ibid.*

otherwise, he would reinstate slavery in 1802, with chaos as a result.

Conclusion

The period of the Directory, from 1795-1799, saw the continuance of the discrepancy between law and lived experience for the cultivateurs and people of color in Saint Domingue. The Villatte Affair and the situation in Varettes demonstrated the gap between law and lived experience under Toussaint L'Ouverture. Though legally free, the cultivateurs and people of color in Saint Domingue faced restrictions, thus emphasizing the discrepancy between law and lived experience. The decrees, proclamations, and letters of Toussaint L'Ouverture conflicted with the concept of legal freedom to exacerbate a gap between law and lived experience. The Villatte Affair and Varettes provide examples of Toussaint L'Ouverture enforcing the gap. While he professed his defense of abolition and freedom, he legislated for the restrictions of cultivateurs and for the continuation of work on plantations. The Council of Five Hundred created the 1798 Law on the Colonies, which claimed that cultivateurs and people of color had the same rights as whites, yet at the same time restricted their actions and placed limitations on their choices. The Directory left a gap between the law and lived experience in its wake. The establishment of the Consulate in 1799 would also lead to a discrepancy between the law and lived experience and the eventual legal separation of Saint Domingue from France.

CHAPTER V

THE CONSULATE

Napoleon Bonaparte rose to power following a coup d'état in 1799, planned by his allies, and established the Consulate. The establishment of the French Consulate signified a conclusion to the revolutions in both Saint Domingue and metropolitan France. From 1799 to 1803, Bonaparte established himself as First Consul. His authoritarian rule differed from the radical democracy that the original revolutionaries had in mind. His strategy regarding Saint Domingue grew increasingly violent throughout the period of the Consulate. As tensions mounted between France and Saint Domingue, Toussaint L'Ouverture drafted a constitution in 1801 that asserted the rights of his people and guaranteed their freedom; ultimately, however, it too resulted in a gap between the law and lived experience. Napoleon opposed this constitution, and later attempted to reinstate slavery. Chaos ensued and the French continued to fight in Saint Domingue until late 1803 and on January 1, 1804, Haiti (formerly Saint Domingue) declared independence. In 1805, the newly independent Haitian leaders drafted a constitution in order to create new laws for a new Republic, ones that would guarantee personal freedom, speak of representation and national unity, and close the gap between law and lived experience that had characterized the colony since its creation. This chapter uses the Constitutions of 1801 and 1805 as case studies to demonstrate the complicated relationship between law and lived experience at the end of the French Consulate and in the new Haitian Republic. Whereas the constitution of 1801 continued to allow for a divergence of the law and lived experience, the Haitian Constitution of 1805 attempted to merge the two previously disparate ideals. Ultimately, however, it too provided loopholes that created a gap between what the law promised and what

most Haitians experienced.

The 1801 Constitution of Saint Domingue, written by Toussaint L'Ouverture, asserted the freedom of the former slaves in a time of ambiguity. As discussed in previous chapters, laws restricted the lives of cultivateurs and people of color, despite their nominal freedom. Toussaint L'Ouverture's Constitution of 1801 states: "There cannot exist slaves on this territory, servitude is therein forever abolished. All men are born, live and die free and French" and "All men, regardless of colour, are eligible for all employment".⁹² This proclamation stressed the ideals of freedom and equality under the law and reaffirmed the illegality of slavery and the full freedom of the people of Saint Domingue, including the freedom to be employed.

Despite asserting such freedoms and opportunities, however, the constitution goes on to declare: "The colony being essentially agricultural cannot suffer the least disruption in the works of its cultivation" and "Every change in domicile on the part of the cultivator threatens the ruin of the crops. In order to repress a vice as disruptive to the colony as it is to public order, the Governor issues all policy requirements necessary in the circumstances and in conformance with the bases of the rules".⁹³ Despite its claims, in practice, the necessary policy requirements included forcing the cultivateurs to remain on the plantations and arresting and punishing those who broke the law. This clause repeated earlier legislation from Toussaint L'Ouverture which valued the economic success of Saint Domingue over the true freedom of its people. So although the 1801 Constitution reasserted freedom and equal opportunities for all citizens of Saint Domingue, it

⁹² Toussaint L'Ouverture, *Haitian Constitution* (1801), in *Toussaint L'Ouverture: The Haitian Revolution*, ed. Jean-Bertrand Aristide (London: Verso, 2008), 46.

⁹³ *Ibid.*, 48.

also affirmed that cultivateurs had to remain working on plantations, or face the consequences. The discrepancy between the law and lived experience reappeared, but now in a different guise. Cultivateurs have legal freedom, which signifies a major advancement, yet they cannot do as they wish in all matters.

The Constitution further limited the freedom of cultivateurs by giving the Governor the ability to take whatever measures he deemed necessary to maintain economic productivity. With regards to the cultivateurs and continued agricultural output, it stated

The introduction of cultivators indispensable to the reestablishment and to the growth of agriculture shall take place in St-Domingue. The Constitution charges the Governor to take convenient measures to encourage and favour the increase in manpower, to stipulate and balance the diverse interests, to ensure and guarantee the execution of respective engagements resulting from this process.⁹⁴

This clause of the constitution explains the necessity of the cultivateurs to the economy of Saint Domingue. The constitution granted the governor power to take “convenient measures” like legislating for the cultivateurs to work on plantations in order to provide for the success of the colony. While the Constitution of 1801 earlier asserted the freedom of the people, it qualifies this freedom with clauses putting economic gain ahead of cultivateurs’ decisions about their work. The constitution also empowered the governor to “exercise the general policing of inhabitants and of the factories, and enforce the obligations of owners, farmers and their representatives towards cultivators and workers, and the duty of cultivators towards owners, farmers and their representatives”.⁹⁵ Under the Constitution of 1801, the Governor had the power to make the laws he deemed necessary and enforce them. This clause specifically mentions cultivateurs and

⁹⁴ Ibid., 49.

⁹⁵ Ibid., 53.

workers and outlines their obligations to others in Saint Domingue. While all in Saint Domingue were legally free, cultivateurs still faced laws and restrictions forcing them to work and restricting their movement . But it also created checks on owners, farmers and their representatives. In this way, the Constitution of 1801 established a gap between the law and lived experience.

Toussaint L'Ouverture's assertion of power and his creation of the Constitution of 1801 angered Napoleon, who wanted to reassert control over the formerly lucrative colony. In response, in May 1802, Napoleon repealed the February 4 legislation abolishing slavery, and thus legally reinstated slavery in the colonies although it would be a long, ultimately unsuccessful battle, to re-implement it in Saint Domingue. At approximately the same time, the French commissioners sent to the colony arrested Toussaint L'Ouverture and eventually deported him in July 1802. His arrest, along with the increasingly violent repression of suspected traitors in the colony prompted a number of high-ranking colonial Army officers from Saint Domingue to abandon the French. These officers included men such as the former slaves Jean Jacques Dessalines and Henri Christophe both of whom had taken advantage of the abolition of slavery and aligned with the French to benefit from French laws and legal status. Under their guidance, the cultivateurs and anciens libres united to drive out the French.⁹⁶ Battles and the loss of life continued until the eventual surrender of the French in 1803. As a result, Napoleon's attempt to reassert his power over Saint Domingue through the reinstatement of slavery failed, and Haiti declared independence in 1804.⁹⁷

⁹⁶ Popkin, *A Concise History of The Haitian Revolution*, 128-132.

⁹⁷ *Ibid.*, 134-135.

The establishment of the new “Empire of Haiti” in 1804 came as a shock to the French due to their role in trying to downplay the events of the Haitian Revolution in Saint Domingue over the course of the past sixteen years. Upon declaring independence, the leaders of Haiti, namely Jean Jacques Dessalines and Henri Christophe (both former slaves and Generals in the revolution) began the process of drawing up a constitution that epitomized the ideas Toussaint L’Ouverture and his successors strived to achieve. As former slaves themselves, these men hoped their constitution would narrow the gap between law and lived experience. They had personal knowledge of the issues that accompanied discrepancies between law and lived experience. The 1805 Haitian Constitution provided an opportunity for the men of this newly established empire to voice not only their grievances with the previous regime’s governance, but also a remedy for these grievances. In doing so, the Haitian Constitution attempted to lessen the discrepancy between law and lived experience between the anciens libres (formerly free people of color) and nouveaux libres (cultivateurs under the French).

The framers of the 1805 Haitian Constitution worked to represent their struggle against, and victory over, the French in the document and incorporated views that reflected the new ideals of the re-imagined community the Framers sought. This society would not face the discrepancy between law and lived experience, the Framers hoped, and the Constitution of 1805 would narrow, if not close, the gap. In practice, however, this proved not to be the case for most Haitians.

The Framers viewed solidarity as the cornerstone of this newly-imagined community of Haiti.

The Preamble of the Haitian Constitution begins with an assertion of solidarity, stating: “We...As individuals and in the name of the Haitian people”.⁹⁸ In utilizing this statement in the Preamble, the framers hoped to instill a sense of togetherness among the Haitian citizens. In doing so, they worked to unite a nation that had previously been unattached due to civil unrest, rebellion, and racial tensions. The Haitian Constitution goes on to declare: “There is one law for everyone, whether it punishes or protects”.⁹⁹ The idea of law being an equitable, all-encompassing system represents an open, democratic political structure the framers of the Haitian Constitution desired. By implementing such an equal interpretation of the law across the nation, the framers of the Haitian Constitution exhibited sensitivity to the citizens of the Haitian nation. This sensitivity would give the citizens the belief that they were to never be mistreated by the law in terms of their humanity; their society was fundamentally more democratic than previous years. The law would not discriminate based on race, gender, status, or economic worth. The Constitution of 1805 ideally eliminated the gap between law and lived experience.

To gain the solidarity they wanted, the framers also declared that all citizens of the Haitian nation in the future would be understood as black, no white man could obtain the title of master, and that color within the nation would be void.¹⁰⁰ The racial identity of the Haitians grew very important to their sense of national identity. Everyone needed to be black in order to move past the historic fights between the blacks (former slaves) and the people of mixed race (former gens de couleur like Ogé) that plagued the colony from 1794-1802. Eliminating former seemingly arbitrary distinctions that had caused tension promoted unity and nationalism. Although

⁹⁸ *The Haitian Constitution* (1805), in *Slave Revolution in the Caribbean, 1789-1804: A Brief History with Documents*, ed. Laurent Dubois and John D. Garrigus (Boston: Bedford/St. Martins, 2006), 191.

⁹⁹ *Ibid.*, 192.

¹⁰⁰ *Ibid.*, 192-193.

homogenizing race served as a really important strategy for the new republic it also created a gap between law and lived experience. Clearly not everyone in Haiti was black and decreeing it was so in law did not erase the fact that racial distinctions remained and that those distinctions impacted how people lived their lives.

The details of the 1805 Haitian Constitution, and especially those related to property rights and equality under the law, in the end created discrepancies between what the law promised and what many people experienced. For example, the document states: “Property rights are sacred; violations will be vigorously prosecuted”.¹⁰¹ By describing property as such, the framers appealed to the interests of the new landowners, and provided an open government by stating that under their conditions, no property will be violated. This statement represents the democracy of the new nation as it theoretically allowed for all citizens to have an equal opportunity to acquire and maintain property. But in practice, the nouveaux libres did not typically have the money required to own property and this lack of wealth shut them out.

The clauses of the 1805 Constitution related to special privileges also made for a discrepancy between the equality promised by the framers and Haitian lived experience. For example the constitution explicitly states:

Brotherhood unites Haiti’s citizens; equality before the law is irrefutably established; and no other titles, advantages, or privileges can exist, other than those which necessarily result from respect and compensation for services rendered to liberty and independence.¹⁰²

¹⁰¹ Ibid.

¹⁰² Ibid.

This clause represents the importance of equality as a value of the framers. The framers wanted an inclusive, democratic society to exist within Haiti and by articulating the forbiddance of “any titles, advantages, or privileges” based on anything other than the necessary requirements, the framers indicate their intentions for equality for the Haitian people. However, because of the clause “necessary requirements” men with money or men who had “rendered services” to “liberty and independence” unofficially ranked higher than poor men or men who had not served. Those in power, who had money and military experience themselves, encouraged these differences. This wording also gave an advantage to blacks, as they fought for independence against the Europeans. The discrepancy between law and lived experience, though smaller than before, still existed on the island.

Conclusion

The constitutions of 1801 and 1805 each affected the discrepancy between law and lived experience in the French colony of Saint Domingue and the new Haitian Republic. Toussaint L’Ouverture’s Constitution of 1801 expressed the theoretical freedom of all people in Saint Domingue and asserted the rights of all, yet explained the importance of the economy and the expectation of cultivateurs to remain on plantations. It continued the gap between lived experience and law. The Haitian Constitution of 1805 focused on the rights of the people in an attempt to match the law with lived experience for the now all “black” inhabitants of Haiti. Although it called for racial, gender, and economic equality, it too created differences between the promise of true equality and lived experience for most Haitians. Although these gaps still existed, the Haitian Constitution of 1805 significantly decreased the discrepancy between lived experience and the law after years of strife and contention.

CONCLUSION

A discrepancy between law and lived experience existed in Saint Domingue throughout the French and Haitian revolutions. The sixteen years between 1789 and 1805 saw turbulent changes in law and power in the French colony, eventually leading to the freedom of Haiti. The gap between law and lived experience can be traced through the four parts of the French Revolution: the Liberal Revolution, the Terror, the Directory, and the Consulate.

The Code Noir, and subsequent legislation, charted lawful behavior for slaves, free people of color, and whites. It clearly intended for the slaves to remain inferior to their masters, granting slave owners multiple powers over their slaves. It also provided for the protection of slaves in certain circumstances, however slave owners used these “protective” clauses to justify slavery and claim the humane treatment of their slaves and other people of color.

Ogé, a wealthy and profitable businessman, experienced the effects of the Code Noir on his legal rights as a citizen, although his vast wealth granted him power to circumvent the strict regulations. Ogé’s racial status limited his political rights, but his social status increased with his wealth. His economic success provided him with enough money so that others overlooked his racial status at times, yet whites never truly considered him an equal. When he led an insurrection against the white elite in Saint Domingue, fighting for the rights of free people of color, the French tortured and executed him. Ogé’s case clearly demonstrates money’s power to overshadow the efficacy of racially motivated law. It also, however, shows how that law can be used to silence those who question social norms, in this case through the execution of a free man of color who demanded application of the March 28th, 1790 law. His case aptly demonstrates the

constantly shifting boundaries between races and the discrepancy between law and lived experience.

The outbreak of the French Revolution and Ogé's insurrection challenged the people of Saint Domingue, increasing tensions and prompting questions regarding citizenship. The free people of color embodied a "middle class" in Saint Domingue. Their social status remained uncertain as law continued to disconnect with reality. While free and considered superior to slaves, the free people of color remained inferior to the white citizens of the colony. While the white citizens of Saint Domingue hoped for autonomy from the French state, free people of color searched for equality and rights as citizens.

Slave revolution in August 1791, more commonly referred to as the Haitian Revolution, further complicated matters. Free people of color and slaves demanded rights that most white colonists seemed unwilling to give. The gap between law and lived experience continued to wax and wane, and people began to notice.

The Terror, although a short period of time, vividly illustrated the discrepancy between the law and lived and experience from 1793-1794. The Decree of General Liberty, issued by Sonthonax in August of 1793, declared liberty to all slaves in Saint Domingue, as an expansion of other emancipatory measures starting on June 20, 1793. These slaves, however, were not permitted to leave their plantations and were forced to maintain the lives that they previously were subject to. Polverel, in areas of his control, made sure the "citizens of 20 June" understood their place in society, emphasizing that they were not equal by any means. In the laws passed, the slaves were free but this was not in practice, an occurring them throughout the Haitian Revolution.

The period of the Directory, from 1795-1799, saw the continuance of the discrepancy between law and lived experience for the cultivateurs and people of color in Saint Domingue. The Council of Five Hundred created the 1798 Law on the Colonies, which claimed that cultivateurs and people of color had the same rights as whites, yet at the same time restricted their actions and placed limitations on their choices. Though legally free, the cultivateurs and people of color in Saint Domingue faced restrictions, thus emphasizing the discrepancy between law and lived experience. The decrees, proclamations, and letters of Toussaint L'Ouverture also demonstrated the existence of a gap between law and lived experience. While he professed his defense of abolition and freedom, he legislated for the restrictions of cultivateurs and for the continuation of work on plantations. The Directory left a gap between the law and lived experience in its wake. The establishment of the Consulate in 1799 would also lead to a discrepancy between the law and lived experience and the eventual legal separation of Saint Domingue from France.

The constitutions of 1801 and 1805 each affected the discrepancy between law and lived experience in the French colony of Saint Domingue and the new Haitian Republic. Toussaint L'Ouverture's Constitution of 1801 expressed the theoretical freedom of all people in Saint Domingue and asserted the rights of all, yet explained the importance of the economy and the expectation of cultivateurs to remain on plantations. It continued the gap between lived experience and law. The Haitian Constitution of 1805 focused on the rights of the people in an attempt to match the law with lived experience for the now all "black" inhabitants of Haiti. Although it called for racial, gender, and economic equality, it too created differences between the promise of true equality and lived experience for most Haitians. Although these gaps still

existed, the Haitian Constitution of 1805 significantly decreased the discrepancy between lived experience and the law after years of strife and contention.

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