

ASSOCIAZIONE
QUADERNI STORICI

Renata Ago
Carmine Ampolo
Angiolina Arru
Enrico Artifoni
Sofia Boesch Gajano
Simona Cerutti
Giovanna Fiume
Carlo Ginzburg
Gabriella Gribaudo
Paolo Macry
Diego Moreno
Gianna Pomata
Carlo Poni
Osvaldo Raggio
Biagio Salvemini
Angelo Torre

QUADERNI STORICI

NUOVA SERIE

148

APRILE 2015

DIRETTORE RESPONSABILE

Angelo Torre

COMITATO DI DIREZIONE

Renata Ago, Angiolina Arru, Roberto Bizzocchi, Marco Buttino, Simona Cerutti, Simone Collavini, Giovanna Fiume, Andrea Gamberini, Gabriella Gribaudi, Diego Moreno, Osvaldo Raggio, Biagio Salvemini, Angelo Torre, Massimo Vallerani

REDAZIONE SCIENTIFICA

Michela Barbot, Emmanuel Betta, Benedetta Borello, Sabina Breva-
glieri, Guillaume Calafat, Federica Favino, Luca Giana, Isabelle Gran-
gaud, Margareth Lanzinger, Domenico Rizzo

SEGRETERIA DI REDAZIONE

Vittorio Tigrino
c/o Dipartimento di Studi Umanistici
Università del Piemonte Orientale «A. Avogadro»
Piazza S. Eusebio, 5
13100 Vercelli
tel. 0161228368 – fax 0161269959
e-mail: tigrino@unipmn.it

La rivista è presente in: ISI Web of Knowledge (Art & Humanities Citations Index); Current Contents; Scopus Bibliographic Database; ERIH; Historical Abstracts; America: History and Life; International Bibliography of the Social Sciences (IBSS); Current Abstracts; Periodicals Index Online; JournalSeek, Essper, Articoli italiani di periodici accademici (AIDA); Bibliografia storica nazionale; Catalogo italiano dei periodici (ACNP); Google Scholar.

Quaderni storici

N. 148 – ANNO L – FASCICOLO 1 – APRILE 2015

I LIBERI DI COLORE NELLO SPAZIO ATLANTICO a cura di Federica Morelli e Clément Thibaud

Premessa, di F.M. C.T.

3

ALEJANDRO DE LA FUENTE, ARIELA GROSS, *Manumission and freedom in the Americas. Cuba, Virginia and Louisiana, 1500s-1700s*,

15

JESSICA PIERRE-LOUIS, *La barriera del colore alla Martinica. Liberi di colore che si spacciano per bianchi (secoli XVII-XVIII)*,

49

JOHN GARRIGUS, «*Affranchisti*» and «*coloreds*». *Why were racial codes stricter in eighteenth-century Saint-Domingue than in Jamaica?*

69

DOMINIQUE ROGERS, *Sguardi divergenti sull'assimilazione dei liberi di colore negli archivi del siniscalcato del Petit-Goâve, parte francese di Santo Domingo (1778-1786)*,

87

CLÉMENT THIBAUD, *Nuovi cittadini di colore? Libertà per privilegio e uguaglianza civile in Terraferma durante la rivoluzione*,

115

FEDERICA MORELLI, *Terra e libertà. I liberi di colore in una regione di frontiera (Popayán-Esmeraldas, secoli XVIII-XIX)*,

145

HEBE MATTOS, *The madness of Justina and Januário Mina. Re-thinking boundaries between free and enslaved labor in nineteenth-century Brazil*,

175

RICERCHE

- TIZIANA PLEBANI, *I segreti e gli inganni dei libri di ricamo. Uomini con l'ago e donne virtuose* 201
- ALESSANDRO BUONO *La manutenzione dell'identità. Il riconoscimento degli eredi legittimi nello stato di Milano e nella repubblica di Venezia (secoli XVII e XVIII)* 231

DISCUSSIONI E LETTURE

- FEDERICA MORELLI, SARA ANTONELLI, *A proposito di «Freedom Papers» di Rebecca J. Scott e Jean M. Hébrard* 267
- GUIDO ORTONA, GIOVANNI LEVI, MARCELLO DE CECCO, *A proposito di «Il capitale nel XXI secolo» di Thomas Piketty* 283
- GIOVANNI SEMI, ANGELO TORRE, *A proposito di «Une famille andalouse» di Alain Cottureau e Mokhtar Mohatar Marzok* 305

CALL FOR PAPERS

- I luoghi della mobilità urbana (secoli XVII-XXI)* 323
- Autori e autori 327

MANUMISSION AND FREEDOM IN THE AMERICAS

CUBA, VIRGINIA AND LOUISIANA, 1500s-1700s

Il saggio utilizza un approccio comparativo per studiare l'affrancamento e la formazione di comunità di liberi di colore nella colonia spagnola di Cuba, nella Virginia inglese e nella Louisiana francese, avvalendosi di fonti quali i regolamenti locali, gli atti dei processi per acquisire la libertà e le petizioni di manomissione. L'obiettivo è comparare il diritto a partire dal basso, utilizzando essenzialmente i regolamenti delle legislature locali, le rivendicazioni degli schiavi nei tribunali, le interazioni tra le persone ordinarie e i livelli inferiori delle autorità governative. A livello locale è possibile analizzare i modi con cui gli schiavi approfittano del gap tra le leggi e le pratiche e afferrare i significati delle relazioni razziali a partire dalla quotidianità. Malgrado gli stereotipi legati alla schiavitù divennero razziali in tutto il Nuovo Mondo, ci sono delle differenze tra le varie aree, in particolar modo legate alla facilità di manomissione e quindi alla creazione di status intermediari. Il saggio analizza come queste differenze si manifestavano, determinando le possibilità per i liberi di colore – e coloro che volevano esserlo – di presentare reclami legali.

Our paper takes a comparative approach to the study of manumission, freedom suits, and the formation of communities of free people of color in the Spanish colony of Cuba, the British colony of Virginia, and the French colony of Louisiana, drawing on local statutes as well as trial records of freedom suits and manumission petitions. We attempt to compare law «from the bottom up»: regulatory efforts by local legislatures; slaves' claims in court; trial-level adjudications; and interactions among ordinary people and low-level government officials. At the local level, it is possible to see the way slaves took advantage of the gap between rules and enforcement, and to fathom racial meanings at the level of day-to-day interactions rather than formal rules. Although all over the New World stereotypes of slaves became racial, some differences persist, particularly with respect to the ease of manumission and hence creation of intermediate status groups under slavery. We explore how these differences manifest themselves in the opportunities available for free people of color – and those wishing to be free – to make legal claims.

It was on July 15, 1737, that François Tioucou, a freedman of the «Senegal nation» resident of New Orleans, managed to formalize an agreement to secure the freedom of his wife, Marie Aram, who was at the time a slave of the recently created Hospital of St. John, or L'Hopital des Pauvres de la Charité! We do not know when Marie Aram became a slave of the hospital. It is possible that she was bequeathed to the institution by Jean Louis, the French boat builder who in 1735 left most of his estate to create the hospital, although the will does not contain a detailed inventory of his possessions.⁴ Nor do we know how long before his marriage took place Tioucou had arrived in New Orleans. Tioucou was apparently an «affranchy» who had obtained his freedom by fighting in the Natchez war against the Indians.⁵

Tioucou's agreement was fairly onerous. In order to obtain Aram's freedom, he committed to «work and exert himself for it and do all that he may be ordered and commanded to do at the said hospital for the service of the poor and sick» during six consecutive years, beginning on January 1738, «during which time he will work at the said hospital without any remuneration whatever, being fed with provisions of the country and supported as the Inspector wills». The hospital's representatives, in turn, promised at the end of the contract to «give and remit liberty to one Marie Aram, negress slave of the said hospital, wife of the said Tioucou». Despite the many obvious uncertainties involved in an agreement of this sort, Tioucou and Aram succeeded in their endeavor. On March 6, 1744, the Hospital's officials certified that the couple had «worked and served the Hospital well and faithfully» and that in consequence it was «just to grant freedom» to Aram as agreed. They also declared that the couple's intention was to remain working at the Hospital. In order to complete the manumission of Aram, the Director of the institution petitioned the governor and members of the council «to confirm and grant freedom to the said Marie Aram, negress, wife of Francois Tioucou, that in the future she may be free as are all the subjects of His Majesty in France». Issued by the governor, the commissary of the marine, and by the intendant, the official confirmation ratified that «as a recompense of the good services rendered to the hospital», Aram was indeed free and was entitled to «enjoy the privileges of persons born free».⁶

A similar official confirmation was required for Will, a Virginia slave, to be declared free in 1710. Will, described in official records as «a Negro belonging to Robert Ruffin», a resident of the county of Surry, was deemed worthy of becoming a free man for being «signally serviceable in discovering a conspiracy of diverse negroes in the said county, for levying war in this colony». Colonial officials, including the

Lieutenant Governor and the Council of Burgesses of the General Assembly, considered advisable to reward such «fidelity» as encouragement to other slaves in the future. After disposing that the owner be compensated, they certified that «the said Negro Will, is and shall be forever hereafter free from his slavery, and shall be esteemed, deemed and taken, as is hereby declared to be a free man, and shall enjoy and have all the liberties, privileges and immunities of or to a free negro belonging». In addition to this, the colonial officials stipulated that Will could stay in Virginia if he wished to do so.⁷

The intervention of colonial officials was also required in the case of Cristobal and Jose, two African slaves of the «Mina nation» living in Havana. In 1691 they petitioned the Lieutenant Governor, Licenciado Francisco Manuel de Loa, to request their freedom. They explained that their former owner, Melchor Borroto, had granted them freedom in his will, but that this provision had not been realized because Borroto had died with insufficient assets to cover his debts. Instead of being manumitted, as their owner intended, they had been auctioned to another city resident, Juan Garcia, in 800 pesos. Invoking «the right that assists us» («el derecho que nos favorece»), Cristobal and Jose «exhibited» the amount for which they had been auctioned and requested to be declared «free people not subject to captivity and servitude». They also requested a certified copy of their petition and of the official's ruling, so that they could show it whenever needed and «convenients», and asked that another copy of the process be kept in the records of the notary registering their petition, in case the original documents got lost. The Lieutenant Governor ruled favorably on all the aspects contained in the petition and declared that Cristobal and Jose were thereafter free.⁸

These cases illustrate the ways slaves across the Americas strove to secure freedom for themselves and for their loved ones. Regardless of the legal system and culture, slaves struggled to create opportunities to change their social status and join communities of free people of color. The path to legal freedom could involve considerable personal sacrifice and draconian service agreements, as in the case of Aram and Tioucou, the denunciation and betrayal of other slaves, as in Will's example, or the unusual savings that some enterprising slaves managed to accumulate, as Cristobal and Jose did. These examples also highlight another important commonality across legal jurisdictions: manumission frequently did not remain a private matter between master and slave, but a public event that required the intervention of colonial officials and the creation of public documents backed by the power and the legitimacy of the colonial state. This article will compare manumission and the regulation of free people in Cuba, Louisiana, and Virginia in

order to illuminate these commonalities as well as important differences in the three legal regimes.

Slaves' interactions with legal institutions have taken center stage in a rich new literature on slavery and law in the Americas⁷. During the last two decades, historians and legal scholars have studied the ways slaves participated in the creation of legal meanings, customs, institutions, and rights through legal suits and claims. In contrast to earlier analyses of legal regimes of slavery through legal codes, statutes, precedents, and doctrines, these scholars approach the study of the law not as a fixed set of principles and precepts, but as a contentious social and political space in which different interests, including those of slaves, constantly collided⁸.

By focusing on slaves' legal activities and strategies, historians have also questioned traditional dichotomies regarding «Anglo-Saxon» versus «Latin American» slavery as set forth most famously by Frank Tannenbaum. The law was central to these foundational differences. In Latin America, slavery developed under the influence of a well-established body of ancient law, of Roman and canonical roots, that conferred on slaves a legal and moral personality. In «Anglo-Saxon» America, by contrast, slavery developed in the absence of a previously established legal system, so the planters were free to treat slaves as chattel. Slaves had no rights under the law, their families enjoyed no legal recognition, and their marriages had no civil effects. Whereas law and custom favored freedom in Latin America, the social and legal environment in «Anglo-Saxon» America was hostile to freedom, such that «being a Negro was presumptive of a slave status»⁹.

Revisionist historians in the 1970s-1990s criticized Tannenbaum for a focus on legislation that provided a misleading top-down history without sufficient attention to the conditions of slavery on the ground. The «New Social» historians demonstrated the brutality of Latin American sugar plantations, the persistence of racial hierarchy and inequality in Latin America after emancipation, and the lack of enforcement of paternalist laws about slave treatment. They pointed to demographic factors to explain variations in slavery regimes – for example, imbalances in sex ratios to explain higher rates of interracial marriage or sex, and fluctuations in commodity prices to explain changing rates of manumission¹⁰.

Thus, for several decades, historians of slavery in both the United States and Latin America de-emphasized the centrality of the law to the culture and economy of slavery. But as they studied slaves and their initiatives, actions, and social networks, social historians inevitably reencountered the law, which shaped many important aspects of slaves'

lives. The recent scholarship on the legal history of slavery builds on this body of work and studies the formation and evolution of legal regimes through the contentious interactions of slaves, masters, judges and other jurists, government officials, and sometimes free blacks¹¹. Through the prism of these interactions, former distinctions between «Anglo-Saxon» and «Latin» America lose salience. What scholars find everywhere are slaves' remarkably similar attempts to exploit whichever openings were available to improve their lives. As one historian states, «[d]espite different legal traditions, the destinies of discrete groups of Africans and their descendants in cities throughout the Atlantic world were remarkably similar. By developing similar ideas and attitudes, these slaves succeeded in creating spaces that allowed them to change their own social and legal conditions»¹².

Yet that slaves reacted similarly to openings in the legal and institutional settings they encountered does not mean that opportunities were similar across the Americas or that the legal culture in which slaves operated was irrelevant. Slaves lived within legal and institutional cultures that were, in fact, vastly different. These different legal regimes did have a significant impact on slaves' lives and their opportunities to achieve freedom. In particular, varying opportunities for manumission meant significant variation in the formation of communities of free people of color, which would have legal and political reverberations through the centuries.

Each slave who managed to escape slavery represented a crack in the strict racial hierarchy that colonial legislators and slave owners had carefully constructed in Havana, Virginia, and Louisiana between the sixteenth and eighteenth centuries. Colonial legislators in each of these settings went to great lengths to create a rigid association between African ancestry and slave status¹³. The existence of free people of color undermined this link and created a problematic intermediate group in what was conceived as a perfect dichotomous order of free white masters and enslaved and socially debased black servants. Furthermore, communities of free people of color challenged the racial order in other ways as well. Some free people of color accrued property and social status, and many mixed freely with whites as well as slaves, including having sex and even intermarrying across the color line, blurring not only lines of status but race as well. «Mulattoes» made up a disproportionate number of free people of color, and even in a jurisdiction that sought to restrict their ability to mix with whites, like Virginia in the eighteenth century, the court minute books are filled with presentations for «fornication» and «bastard bearing» by white women and «negroes» or «mulattoes».

The level of manumission in a society should not necessarily be seen as an indicator of friendly «attitudes» towards slaves. It is undoubtedly true that Iberian masters freed their slaves in greater numbers than did the British not because of «the mystique of the Portuguese or Spanish soul», but for a variety of demographic and economic as well as legal and religious reasons. Iberian colonies lacked the steady stream of European migration to the British American colonies, so free people of color performed interstitial economic roles that might otherwise have been filled by white immigrants¹⁴. The boom and bust cycles of the Iberian colonial economies provided incentives for manumission as did the prospect of slaves working hard and paying a high price for self-purchase¹⁵. Yet while manumission may not have been the consequence of favorable views of the slaves, or lack of racial prejudice, it is certain that manumission helped to shape the resulting regimes of slavery and race. As Frank Tannenbaum argued long ago, manumission «influenced the character and outcome» of slave systems¹⁶.

The formation of sizeable communities of free people of color not only subverted the negro-slave association, but tempered attempts to turn people of African descent into a class of disenfranchised and socially dead subjects. Many of the slaves who managed to obtain freedom, frequently by purchasing it, did so with the assistance and support of kin and other free blacks. The size and economic wellbeing of the free black community was critical in this regard, as it provided the networks, institutional access, and frequently resources needed to escape the slave condition¹⁷. Furthermore, scholars of Latin American independence frequently explain the elimination of legal caste systems in the region as a byproduct of the size and political might of its free colored communities, a process that can be understood as one of Tannenbaum's «ultimate» and most consequential «outcomes»¹⁸.

A careful analysis of manumission and the regulation of free people of color is therefore central to the study of the slave and racial legal regimes of Havana, Virginia and Louisiana¹⁹. The point is not to establish whether planters and legislators in each of these territories had a friendly or hostile attitude towards manumission. As the examples mentioned above illustrate, at least under certain circumstances, colonial officials and owners agreed that granting freedom to some slaves was, at the very least, advisable, if not precisely desirable. And as those examples show, slaves ingeniously sought to take advantage of whatever opportunities were available, or to fabricate those opportunities, in order to obtain freedom. Furthermore, all three jurisdictions developed communities of free people of color in certain locations: Havana, New Orleans, and the Eastern Shore of Virginia. But as we shall see, the

opportunities available to become free and to exercise one's freedom shifted over time and across space. Behind the apparently similar stories of Francois Tiocou and Marie Aram, Will, and Cristobal and Jose, there were vast, significant, and consequential differences.

Legal Regimes of Manumission

The presence or absence of well-developed legal precedents helped to determine slaves' opportunities to become free. Ironically, the same legal culture that allowed slaveowners in Havana (and in the Iberian colonial world more generally) to create a discriminatory legal regime against «negros», prevented them from constructing the neat racially-stratified order that they sought to build. Although Iberian legal precedents gave local elites an important resource in their efforts to entrench racial distinctions in law, Cuban colonists also inherited a robust institution of manumission, already deeply entrenched in the legal and slaving practices of Mediterranean Spain and Portugal. By contrast, the French colonizers of Louisiana had already determined, based on their experience in the Caribbean, that manumission and intermarriage should be carefully restricted; their legal precedents in the *Code Noir* dictated a far different approach to freedom for blacks than that of the Spanish. Virginia's lack of legal precedent initially worked in favor of Africans' efforts to gain freedom and to make their way in colonial society. While manumission and intermarriage were unregulated, a significant community of free people of color developed in the Chesapeake Bay. This community became such a threat to Virginia elites, however, that by the close of the seventeenth century, colonists had cracked down on manumission, intermarriage, and the rights of free people of color, so that eighteenth century Virginia looked more like Louisiana, with only a handful of manumissions over several decades.

Iberian colonists inherited a legal regime in which a variety of customs had established that slavery was not necessarily a permanent condition²⁰. In Spain, although the widespread practice of «rescate» or ransom, by which Christians and Muslims liberated coreligionists either through payments or through the exchange of enslaved «captives», rarely extended to sub-Saharan slaves, it did make freedom purchasing a frequent and unremarkable legal practice²¹. African slaves seized opportunities to free themselves through a variety of well-known and time-honored practices and legal means, so that by the mid-sixteenth century the slave centers of Iberia – Seville, Lisbon, Valencia – were home to large communities of free people of African origin²².

Manumission in the Iberian colonies was deemed a private matter, a logical extension of the slave owners' right to do with their slaves as they wished. Slaves obtained freedom either through freedom letters or by wills, both of which were issued by slaveowners. Only exceptionally did state authorities intervene to decree the liberation of a slave, which happened when manumission was disputed or litigated. Although masters were not compelled legally or morally to grant freedom to their slaves, manumission was considered a pious act and both freedom letters and testamentary freedoms were couched in the language of religion and piety, as services to God²³. Although some scholars are skeptical about the importance of religious motives, given the high proportion of self-purchases in all manumissions, profit and piety were not necessarily contradictory²⁴. The manumission of a few select slaves in wills suggests that most masters wanted to keep the services of their slaves during their lifetimes, but perceived virtue in bestowing freedom on a worthy bondsman.

No known legislative effort was made to restrict manumission in the Spanish colonial empire. Although some Mediterranean practices were lost under the weight of Atlantic slavery – such as the careful interrogation of slaves, practiced in Valencia, to determine if they had been properly enslaved – manumission was neither questioned nor curtailed²⁵. On the contrary, from the early decades of the colonial expansion, legislation dealt with manumission and self-purchase as ordinary social practices. A Royal cedula of 1529 asked the governor of Cuba whether it was expedient to give freedom to slaves after they had served some time and paid a given amount²⁶. Neither the possibility of «giving freedom» nor the practice of the slaves paying for it were questioned or treated as polemical issues. Manumission was clearly regulated in the *Siete Partidas* and numerous colonial regulations ratified their validity in questions of slave management. For instance, a Royal cedula from 1540 ordered that slaves who claimed to be free were to be heard by the *audiencias*, the highest courts in the colonies. This provision built on the traditional doctrine, clearly established in the *Partidas*, that slaves who claimed to be victims of egregious abuses had the right to be heard in court. When Santo Domingo authorities wondered if allowing slaves to marry entitled them to freedom, the King's Council replied by invoking «the laws of this Kingdom», particularly the Law 1, Title 5, Partida 4 which clearly stated that marriage did not confer freedom on slaves²⁷.

Most manumissions took place through self-purchase. 74 percent of all manumissions performed in early seventeenth-century Havana involved payments, whereas freedom was conferred gratis – that is, as a reward for past services or due to other personal considerations – in

17 percent of all cases. Most of these non-payment manumissions were testamentary and took place only after the death of the owner. The other cases, about 9 percent of the total, were conditional manumissions that typically involved various services and obligations for the slave²⁸. The proportion of self-purchases was lower in sixteenth-century Lima (48 percent) and Mexico (36 percent), but still considerable²⁹. In eighteenth-century Havana, self-purchases represented about 80 percent of all manumissions³⁰.

Women managed to purchase and obtain their freedom in proportions significantly higher than men. They represented 65 percent of all slaves who managed to obtain freedom at the turn of the seventeenth century (1585-1610) in Havana and they continued to outnumber men a century later. The gender gap was particularly noticeable among Africans, among whom women represented three-quarters of those obtaining freedom, despite the fact that among slave imports women were always a minority. The prevalence of women, a common feature of manumissions in the Iberian colonies, was linked to several factors³¹. First of all, women performed occupations that allowed them to accumulate savings at a higher rate than men. Women were also preferred for domestic work, which provided intimate access to the owner's family. There is evidence that female slaveowners favored women in manumissions, probably those who were under their direct supervision in the thoroughly gendered domestic sphere³². Among African slaves manumitted in early colonial Havana (1585-1610) by mistresses, women represented a whopping 92 percent. They were also favored by male slave owners (68 percent), although at a lower proportion.

The prevalence of women in manumissions had important long-term consequences. Since children followed the social condition of the mother, the progeny of these women would be free. The principle of *partum sequitur ventrem* guaranteed that slaves' children would remain enslaved, but the same doctrine applied to freed women's children, even if the fathers were enslaved. Many of the women who managed to obtain freedom were of reproductive age (the average age of manumitted women in Havana, 1585-1610, born in the island was about 14 years of age, for Africans 37.5) and this led to higher reproduction rates among the free colored population and to the consolidation of free communities of color in many Iberian cities since early colonial times.

Other factors contributed to the consolidation of these free-colored communities. Since most manumissions were in fact freedom-purchases, children were frequently preferred. In addition to family considerations and love, manumission prices were considerably lower for children, so parents and other relatives targeted them. The manumission

purchase price of a five-year old slave was about half of the price that a prime-age slave in her twenties had to pay for freedom. In early colonial Havana, the average manumission age for slaves born in the island or *criollos* (who represented about half of total manumissions) was only 10 years old. Indeed 68 percent of *criollos* who obtained manumission were 10 or younger. These children were born under slavery, but spent almost all their lives as free³³.

It is possible that many of the children who escaped slavery at such young ages were related to the slaveowner or to members of the slaveowners' social circles. It is worth noting that as early as the turn of the seventeenth century, about a quarter of the slaves obtaining freedom in Havana were described as «pardos» or «mulatos», the offspring of interracial sexual unions. It is also noteworthy that in 28 percent of these cases, the manumission price was paid by a white resident who did not acknowledge any family relation with the child. Finally, many of the relatively scarce manumissions that were given gratis benefitted children who were described as racially-mixed. Such was the case of Juánica, a one-year old mulatto that prominent Havana *vecino* Hernán Manrique de Rojas manumitted gratis in 1602 and who was the daughter of one of his own slaves, María «mulata». It was also the case of Francisca «of pardo color» («de color pardo»), manumitted gratis in 1691 to reward services rendered by her mother. The female slave owner, however, also acknowledged that Francisca was a «natural daughter» of her unmarried son, Juan Rodríguez. That is, Francisca was the granddaughter of the slaveowner³⁴.

Some customs and practices facilitated self-purchases, and ended up shaping the contested legal contours of manumissions. Since the sixteenth century there is evidence that slaves and masters sometimes agreed on a manumission price that, once established, could not be altered. What this meant in practice is that whenever such slaves were later sold, donated, or mortgaged, it was always on conditional terms: the new owners could not refuse manumission if the slave was able to pay the amount agreed. Nor could the original owner go back on the agreement. Frequently notarized, these agreements transformed a master's prerogative into a slave right, one that the slave could invoke and exercise even against the will of the owner. The notarized receipt issued by Havana resident Juan Gonzalez Junco in 1690 exemplifies this point. Junco declared that his twenty-year old slave Juana had asked him to «give her freedom» if she paid 300 pesos for it, that he had «agreed to do it» and that Juana had already paid 150 pesos. Upon issuing the receipt for this amount, Junco declared to be «obligated by law to concede her freedom whenever my slave Juana gives me rest to

complete the said 300 pesos». Although freedom was still presented as a master's concession («otorgarle la dicha libertad»), it had become a legal obligation that the owner could not evade. Juana had acquired the right to become free whenever she completed payment³⁵.

Juana's case is also illustrative because, by paying half of her price, she achieved an anomalous and hard to define social status that afforded her the possibility to claim some additional rights. Since the sixteenth century, some slave sale contracts acknowledged that a slave who had already paid a portion of her price was entitled to compensation in a proportion roughly similar to the paid portion of the price. Known as *coartación* – from «cortarse» or cutting the price in pieces – this institution had the rather unsettling effect of creating a set of individuals who were neither fully enslaved nor free. They constituted a middling category of uncertain and highly contentious legal and social standing. A good example of this may be the case of Esteban Barrios, a person described as a «free pardo» in 1694. Barrios was legally free, but in order to complete his payments for freedom he agreed to serve Custodio Hernandez for one year and a half «doing everything» that Hernandez «commanded and ordered as if he was his slave» («como si fuera su esclavo»). The contract stipulated that Barrios would not perceive any compensation during this period. While the notarized document listed Barrios as free, the contract placed him in a situation that was quite explicitly close to that of a slave³⁶.

Needless to say, conflicts over *coartación*, and manumission more generally, frequently resulted in litigation. Self-purchase often led to disputes over the fair price of a slave – when slave and owner failed to agree on the price of freedom. Estate settlements also led to frequent legal contests, as in the petition initiated by Cristóbal and Jose Mina in 1691 Havana. The town council of Havana, which functioned as a court of appeals, heard more than twenty manumission-related cases between 1650 and 1700³⁷. Litigation continued in the eighteenth century. A study of 1,320 freedom letters in Havana (1700-1770), found that in 102 cases the slaves had been forced to litigate their freedom³⁸. Outsiders often intervened in this contentious process. Private individuals sometimes provided support for the slave by lending money or by serving as guarantors. Colonial officials also played a role, dispensing royal justice, mediating between masters and slaves, and providing paths, however narrow, for slaves to fight legally for freedom.

For example, one exceptional path to freedom was created by slaves who moved between different imperial jurisdictions and who claimed to do so for religious reasons. Just as some slaves used their past experience in the Iberian colonies and their condition as baptized Chris-

tians to demand freedom in seventeenth-century Virginia, slaves who escaped from the English and the Dutch used religious reasons – embracing Catholicism – to press freedom claims in Havana. In 1681, for instance, the slave Felipa petitioned the town council of Havana for her freedom «because she ran away from Jamaica from the power of the English, whose slave she was»³⁹. A Royal Cedula of 1750 ratified that three slaves who had escaped precisely from Jamaica were free. The Royal Cedula mentioned that this was the established legal doctrine and that numerous royal regulations prescribed that slaves who found «refuge» in the Spanish territories from «foreign colonies» were to be given freedom⁴⁰.

Whatever route they took, a significant number of enslaved Cubans found their way to freedom in the seventeenth and eighteenth centuries, so that by 1770, Havana at least had a well-established community of free people of color. Although small communities of free people of color developed both in New Orleans and on the Eastern Shore of Virginia, they were small compared to Havana's, in large part because of a restrictive regulatory regime established in both jurisdictions in the eighteenth century.

A few free people of color arrived in the Louisiana Territory among the first immigrants. Marie, a domestic servant, and Jean-Baptiste César, a laborer, arrived in 1719, and several other free people of color appear in the earliest court records in the 1720s: Raphael Bernard, Simon Vanon, and John Mingo. Mingo was a runaway slave from South Carolina declared free by the director of the Cantillon Concession; he then purchased his wife Therese on installments, using his wages from managing a plantation⁴¹. However, a much greater number of Africans arrived in New Orleans as slaves, about 7000 between 1718 and 1755⁴². For these people, the paths to freedom were considerably narrower than those existing in early colonial Havana. It was not impossible for slaves to become free in French Louisiana. But opportunities were few.

Compared to the original version, the *Louisiana Code Noir* of 1724 was very restrictive concerning manumissions. Whereas the 1685 Code authorized any master twenty years old to manumit a slave without state interference, by the time the 1724 Code was promulgated, the legal regime of manumissions in the French Caribbean colonies had become considerably more restrictive. Claiming that slaves resorted to illicit means to secure funds for self-purchase, by 1711 the Intendant and the Governor of Martinique and Guadeloupe ordered that owners could not set slaves free without their authorization. A royal confirmation followed two years later, nullifying any manumission that was not officially sanctioned and prescribing that illegally freed slaves would be sold for

the King's profit. The Louisiana Code followed this restrictive doctrine. It allowed manumission only if the master was twenty-five years old and secured the authorization of the Superior Council. According to article 50 of the Code, the Council would only authorize manumissions «when the motives for the setting free of said slaves, as specified in the petition of the master, shall appear legitimate to the tribunal». Manumissions performed without proper official authorization were «null». In such cases the slaves would be confiscated and sold for the benefit of the Company of the Indies⁴³.

As the case of Marie Aram and Francois Tiocou shows, slaves made the best of this restrictive legal regime to secure freedom. Gwendolyn Midlo Hall's comprehensive database of all surviving records of Africans and African Americans in Louisiana shows 119 manumissions during the French period. Some slaves managed to obtain freedom by performing important public services, particularly in cases involving public order. Slaveowners across imperial lines rewarded a few slaves with freedom when they participated in colonial defense or, as in the case of Will from Virginia, when they denounced or helped quash slave revolts. In 1729, for instance, the Governor of Louisiana granted manumission to about a dozen slaves who supported colonial authorities against the Natchez Indians. The former slaves fought alongside whites against several indigenous groups in the 1730s. Tiocou was one of these slaves⁴⁴.

For most slaves, however, the only hope to escape slavery legally was to persuade masters to grant them freedom. This could take the form of an outright manumission, to reward past services, or it could take the form of a freedom purchase. Both forms were discouraged by the Code Noir, but some manumissions did take place. Unlike Havana, where most manumissions involved freedom purchases, in French colonial New Orleans they were rare. Those records that survive pertain to free husbands purchasing their enslaved wives. However, many of the manumissions that claimed to reward previous services may have involved non declared payments, as outright freedom purchases were clearly frowned upon by authorities.

Whether or not payments or family relationships were behind manumissions, slaveholders understood that to win Superior Council approval, they needed to state a different kind of reason: freedom should be granted only for «good and faithful services» or «good and agreeable services». Explicit references to payments are indeed rare. In most cases, as in the 1735 «[m]anumission of Marie Charlotte and Louise, her small daughter, by their master, St. Pierre», freedom was offered «for the services rendered him by said slave»⁴⁵. In 1762, the Superior Council granted a slaveowner's petition «to free a negress named Jeanneton, in

reward for her zeal and fidelity in his service». Similarly, a captain in the Colonial Troops petitioned the Governor and the Intendant, «wishing to recognize the faithful services of a negress named Mimis»⁴⁵. Governor Bienville himself freed an enslaved couple in recognition of twenty-six years of service, in 1734⁴⁷.

As in Havana, some of the outright manumissions were granted in wills, and even some agreements between masters and slaves during their lifetime took effect only after the owner passed away. For example, in 1739, «[n]egroes Louis and Catharine, acting also for their fellow slaves Jeanne Marguerite, Baptiste, and «little Louis»; as likewise for mulattoes Pierre, Marianne and Francoise», petitioned the Superior Council for a copy of their late master's will because he had «promised them their liberty»⁴⁸. The manumission was confirmed two days later by Governor Bienville and Intendant Salmon after an examination of the will⁴⁹. In 1741, Pantalón, a «negro slave», petitioned the council for his freedom based on his master's will, although this case involved payment, for the will provided that Pantalón would pay the price «at which he and his family be appraised». They were appraised at «3000 livres». A Mr. Fabry pledged himself as security for the 3,000 livres, and Pantalón, his wife, and children were set free⁵⁰. Other masters petitioned to free their slaves as they were returning to France or otherwise leaving the colony⁵¹.

Pantalón's case is similar to that of Cristóbal and Jose Mina, the African slaves who were seeking their freedom in 1691 Havana. In both cases, the slaves had been promised freedom in their master's will. In both cases, they had to petition authorities to make the will effective; both cases also involved cash payments. Pantalón secured the financial support of a third party, a practice that was common in Havana and in the Iberian colonies more generally.

The main difference, however, is that by law all manumissions in Louisiana had to be confirmed and approved by the Superior Council. Owners were forced to submit a petition and to offer a rationale for their acts. The intervention of authorities was needed even in conditional, future manumissions, such as that of Charlotte, «of Senegal nationality» and her son Louis. The owner, Antoine Meullion, surgeon of the King, declared before the notary of the Council in 1746 that he «granted freedom» to Charlotte and her son, but that such freedom would take effect only if he left the colony or in case of death, «in such case petitioning the Governor and Commissioner Ordonnateur to confirm her manumission»⁵².

It is possible that some private, unsanctioned manumissions, took place, but the social situation of manumitted slaves and of free blacks

in general was precarious enough even with papers, so it was to their advantage to make sure that a change in status was properly inscribed in public documents⁵³. Writing was crucial, and an unsanctioned manumission was, by law, no manumission at all. As Rebecca Scott and Jean Hébrard eloquently state, «words could protect, and words could enslave»⁵⁴. Slaves knew this. When Louis and Catharine, acting for several fellow slaves, «beseech[ed] a copy or extract of the will of their late master, Captain De Coustillas, who had promised them their liberty», they recognized the value of «freedom papers»⁵⁵. Although it is possible that there were unrecorded manumissions that swelled the ranks of free people of color, it is doubtful that these were large in number, nor that the people thus freed were truly free.

The legal regime concerning manumissions evolved differently in Virginia. Unlike in Louisiana, which instituted the restrictive *Code Noir* at the outset of colonial settlement, seventy years passed before the Virginia General Assembly passed any limitation on a master's right to free his slave, or a free person of color's right to marry a white person, and effective regulations were not in place until the early eighteenth century. However, between 1705 and 1782, the Virginia legislature shut down the possibilities for manumission and self-purchase, limited the rights of free people of color, ended intermarriage, and greatly increased the penalties for sex across racial lines. So although free people of color had formed significant communities in the small populations of the Eastern Shore in the seventeenth century, these communities lost status and were dwarfed in size by the influx of slaves from Africa in the eighteenth century.

Between the 1640s and 1691, manumissions appear to have been considered, as in the Iberian colonies, a right of the slaveowner, who could grant freedom to a slave without the authorization of colonial officials. The presence of black servants, however, makes it difficult to discern if some of the cases in the General Court of Virginia concerned slaves for life, or Africans subject to terms of service. In 1645, for instance, a master emancipated several blacks in his will and left them some lands as well. It is not clear if they were servants or slaves⁵⁶. The «negro [s]ervant» John Graweere was «permitted by his said master to keep hogs and make the best benefit thereof», paying half the proceeds to his master and keeping half for himself. Graweere had a child «which he desired should be made a christian», and «by reason whereof» he purchased the child's freedom in 1641; the General Court decreed that the child should be free from Graweere's master as well as his mother's. The records do not reveal whether Graweere was an indentured servant or a slave for life⁵⁷. In 1668, the court issued a favorable «[j]udgment

for a negro for her freedom»⁵⁸, and in 1672, «a Negro man», Edward Mazingo, became free after his indenture was completed⁵⁹. At least some of these servants collected freedom dues after their years of service, just as white servants did.

Local court records in Accomack County and Northampton County, on the Eastern Shore of Virginia, give greater depth to this picture of a free black community with a significant flow of manumissions and freedom suits. A number of free «negro» planters who settled on the Eastern Shore in the mid-seventeenth century became heads of large families who appear often in the records. The first of these was Anthony Johnson, who may have been in the first shipment of «negars» to Virginia in 1620, but by mid-century owned property and slaves in Northampton County. He freed his own slave, John Caser, in 1654, and appears in the records trading cattle, mares, land, and tobacco with other free people of color and whites⁶⁰. Philip Mongom, Domingo Mathews, Bashaw Fernando, Black Jacke, and Nese were all given freedom by will or deed in the 1650s, and slaves continued to win their freedom throughout the seventeenth and into the eighteenth century⁶¹.

Some of these manumissions are the result of self-purchases or the efforts of others to secure a slave's freedom; others are less clear in their origins. Philip and Mingo (later known as Philip Mongom and Domingo Mathews), slaves of William Hawley, won their freedom during their four-year hire to planter John Foster that began in 1648. Foster complained that «the Negroes which hee had of Capt. William Hawley were very stubborne and would not followe his business». Finally, Foster got Hawley to sign an agreement with the two slaves in which they promised to finish their term of service with Foster, after which «they shalbe free from their servitude and bee free men, and labour for themselves», provided they paid Hawley 1700 pounds of tobacco or «one man servant, beinge an able hand». However, the two were set free early, in 1650, after giving the Northampton County Court information about a local Indian plot to poison English wells⁶².

Extant records of self-purchase agreements suggest a fair amount of autonomy for slaves who purchased themselves, such as Francis Payne, one of the first free people of color in the colony. Philip Taylor had bought «Francisco a Negroe» in 1637, but all later records refer to him as Francis or Frank. After Taylor died, his widow left Payne alone on her old plantation when she remarried, in 1649 deeding him rights to its crops, authorizing him «to use the best meanes lawfully hee can for the further betteringe of the said cropp», and giving him «the power from tyme to tyme to make use of the ground and plantation», in return for 1500 pounds of tobacco and 6 barrels of corn at harvest time. Later that

year, they signed a self-purchase agreement in which he promised to pay her «three male servants between 15 and 24 years old, each having six or seven years to serve». Although he was not able to meet the one-year deadline in the contract, he seems to have succeeded in buying his freedom by 1651. A letter from the widow Taylor's new husband William Eltonhead suggests that he was actively trying to help Payne fulfill the agreement:

After my love to thee etc. I cannot heare of any servants in Yorke. They are all sould. But if you doe get your tobacco in caske, I question not but to get them, when I come downe againe, and likewise I will bringe downe some caske with mee if I can come soone enough, soe I rest your loveinge mayster⁶³

Other slaves purchased their freedom in exchange for tobacco, livestock, their own or their children's labor. William Harman purchased his freedom from William Kendall for 5000 pounds of tobacco in cash «cleer of ground leaves or trash»⁶⁴. In Accomack County in 1671, John West recorded his agreement with his mulatto servant Thomas Webb, promising that Webb would be free after three years of work. In return, Webb promised to pay 1500 lbs. tobacco per year, a cow and a calf; and to bind his daughter to West's daughter until she came of age. West promised to give Webb's daughter a mare colt and its female increase; Webb to care for it and receive the male increase. Webb was «free to deal with anyone» but had to provide his own clothing⁶⁵.

For at least a few decades, some slaves appear to have understood that baptism into Christianity afforded them one avenue to freedom. In 1644, a mulatto named Manuel sued before the Virginia Assembly in Jamestown on the basis of Christianity, and in 1661, the Indian boy Metappin was freed, «he speaking perfectly the English tongue and desiring baptism»⁶⁶. Elizabeth Key, the daughter of a white man, Thomas Key, who had returned to England, and an African mother, made her Christianity a fundamental part of her claim to freedom in 1654. Col. Humphrey Higginson testified to an agreement with Thomas Key, to care for her as her godfather. «That shee hath bin long since Christened Col. Higginson being her God father and that by report shee is able to give a very good account of her fayth». Elizabeth Key won her suit, and married her attorney, staying in Virginia rather than returning to England with Higginson⁶⁷.

Several other slaves won suits for freedom based on their Christian baptism, and in other cases, Christian baptism is not the basis for winning a freedom suit, but nevertheless appears to bolster a slave's case. When John Graweere purchased freedom for his child, he told

the General Assembly that «he desired [the child] should be made a Christian and be taught and exercised in the church of England, by reason whereof he... did for his said child purchase its freedom». The court decreed the child should be free and its Christian upbringing be provided for by Graweere and the child's godfather. It was thus not surprising that in 1667 the General Assembly decreed that baptism would no longer be the basis for freedom.⁶⁸

Yet even after the passage of the law, Rebecca Goetz suggests that «enslaved people in Virginia were still using baptism as one among many reasons for freedom». For example, William Catilla, a mulatto, sued Mrs. Margrett Booth for freedom in 1695, because he was «the son of a free woman & was baptized in the Christian faith».⁷⁰ Baptism also remained a reason for treating free people of color as legal persons. For example, John Johnson gave testimony in Somerset County court in 1674 after giving assurance that he was Christian and «did rightly understand the taking of an oath».⁷¹

Other manumissions took place without any reasons recorded in court. For example, Elisabeth Walthum recorded a manumission in Accomack County Court in 1671 simply by declaring: «I, Elisabeth Walthum... do fully acquit and discharge Jeane, a Negro... from any further service either to me or any relating to me, declaring her to be a free woman».⁷² A deed by William Kendall in 1659 set forth that «[w]hereas Capt. Francis Pott, Deceased, declared in his life time that when he departed this natural life... set his negro Bashaw Free but did not mention ye same in his will, know ye that I doe by these presents sett ye said Bashaw att Liberty, proclaim him to be free of my servitude».⁷³ Sometimes the court notes that the master has acquiesced to a slave's petition for freedom. For example, Henry Jackson, who is listed in one court record as «maletto servant to William Sterling», is noted in 30 September 1690 only as «servant to Wm. Sterling, petitioning for his freedom, the suit concluded (with the concession of ye said party) the said Jackson is to serv the said Sterling one whole year from this day and he to be discharged from his said master's service with reasonable clothings».⁷⁴

By 1691, as part of broader efforts to limit the rights and standing of free people of color, the Assembly began to take steps to limit manumissions. The very existence of free people of color was described as an «inconvenience» that would produce all sort of negative social practices. The Assembly therefore decreed

that no negro or mulatto be after the end of this present session of assembly set free by any person or persons whatsoever, unless such persons... pay

for the transportation of such negro or negroes out of the country within six months after such setting them free, upon penalty of paying ten pound sterling to the Church wardens of the parish.

The fine was to be used to «cause the said negro or mulatto to be transported out of the country» and to sustain the poor of the parish.⁷⁵

Although the act of 1691 did not outlaw manumissions, and freed slaves continued to receive permission to stay in Virginia, the new law signaled official disapproval of the practice and placed an additional burden on slaveowners wishing to manumit their slaves. Further restrictions followed. When in 1712 a slaveowner from Norfolk County «by his last Will set free sixteen Negro Slaves and [gave] them a considerable Tract of Lands», the Executive Council submitted the case to the General Assembly, requesting «a law against such manumissions of slaves, which in time by their increase and correspondence with other slaves may endanger the peace of this colony».⁷⁶ In 1723, the Assembly passed a law banning manumissions «upon any pretense whatsoever, except for some meritorious services, to be adjudged and allowed by the governor and council». Slaves who were set free without proper authorization were to be seized by the church wardens of the parish and sold back into slavery.⁷⁷

The effectiveness of the 1723 ban is not in question. The total number of manumissions between the 1720s and the American Revolution in the 1770s was exceedingly small, perhaps as few as two dozen cases of gratuitous manumission in a fifty-year period, although there continued to be some successful freedom suits in county courts.⁷⁸ The Council does appear to have endorsed a fairly lax definition of what constituted «meritorious service», which was at times equated with such vague statements as «faithful service» or «fidelity and diligent service», clauses that were in fact very similar to those invoked in Havana's manumission letters at the time.

In a few cases, the merits required by law were spelled out in great detail, as in the rather exceptional case of Papaw, a slave who had performed «many extraordinary cures» and who was promised freedom in 1729 «to obtain from him a discovery of the secret whereby he performs the said cures». After Papaw «made an ample discovery of the several medicines made use of by him for that purpose to the satisfaction of the Governor and the Gentlemen appointed by him to inspect the application and operation of the said medicines», he was granted freedom. Papaw also secured an annual pension of 20 pounds, for «the medicines discovered» by him were «tried and found effectual».⁷⁹

Most of the slaves who managed to obtain freedom in the General Court, however, did so for more mundane reasons related to «faithful services», just as in Louisiana. Almost all these manumissions were contained in wills and were frequently ratified by the council after the death of the master. In a typical example, the executors of the will of Philip Ludwell «praying the approbation of this Board for the manumitting of Jonathan Pearse... in consideration of his faithful services», represented the desire of the deceased, as contained in his will. In 1735, the widow of John Smith declared that her husband, «being possessed of a Negro man named Robin for whom he had a very great affection did on his death bed declare his mind & earnest desire to be that the said Negro Robin for his fidelity and diligent service should immediately after his decease be free & discharged from all farther servitudes». To fulfill Smith's wish, the widow «humbly prayed the approbation of this Board therein pursuant to the Act of Assembly in that case made & provided». In 1741, the nineteen-year old slave Lilly, who was granted freedom by her female owner in her will, was likewise declared free «on account of several very acceptable services done by her».

Occasionally not even the meager justification of good services is offered to claim meritorious service, as in this case from 1749: «Upon the Recommendation of his Honor the Governor it is ordered, that a Negro man, born a Slave, belonging to his Honor, named Captain John, be manumitted and set free»⁸⁰. Only rarely did the council refuse to ratify a manumission, claiming that the petitioner had failed to provide adequate proof of meritorious service⁸¹.

Despite the explicit opposition of Virginia legislators and planters to manumission, a few slaves managed to litigate for their freedom and, at the very least, forced authorities to consider their claims. In 1745, for instance, a mulatto named Abram Newton petitioned the council for his freedom, claiming that he had been married to Elizabeth Young, a free mulatto woman who had purchased him, that the two had lived together until her death, and that, «writing under her hand», she had given him «his discharge after her death». After inquiring if any party claimed to own Newton as a slave, the council «ordered that the said Abram be manumitted and set free according to the will» of his deceased wife and mistress⁸². This was of course an exceptional case, as Abram petitioned for freedom after his owner's death, and the master happened to be also his wife.

In those few cases in which slaves litigated their freedom against their masters, however, they faced not only formidable legal obstacles to prove that they had been wrongly enslaved, but also the reprisals of their putative owners. In 1711 a black man named John Demerea, petitioned

the council «to prove his freedom» and obtained an order from them stating that «his master should not punish him for his coming without leave to present his petition». A few years later, in 1717, another black man, John Coomee, argued that he had been wrongfully enslaved by a resident of Elizabeth City County and claimed to be a «freeman». Although in both cases the petitioners managed to lodge their claims, they both faced the ire of their alleged owners. Demerea complained that the person who claimed to be his owner «had beat him in the most inhumane and severe manners». Coomee suffered a similar fate, as he was whipped, placed in irons, and threatened to be transported out of the colony⁸³.

In county courts as well, when other avenues for freedom were closed off in 1723, a significant number of slaves continued to petition for freedom, simply declaring that they were «born of a free woman» as reason enough to make them free. Some of them claimed an Indian or white mother, others that their mother, although a «negro», was free. For example, in 1723 in Northampton County, Thomas Ferrrell, «mulatto», petitioned for freedom on the ground that he had reached the age of thirty-one years (the statutory indenture for a bastard born of interracial fornication), but he then added to his petition «being born of a white woman». In 1732, Nanny Bandy («alias Judea») petitioned that «she is illegally held as a slave, and born on the body of a white woman». In 1747, Will, «mulatto», petitioned for his freedom, and «Indian Will» sued in the same year, claiming that «his mother [was] very well known to be a free Indian». Although Indian Will lost his case, the others were successful⁸⁴.

One case from Northampton County demonstrates the changing status of free people of color on the Eastern Shore in the early eighteenth century. Jane Webb, born in the early 1680s as the daughter of a white woman and a man of color, was a servant in the household of Henry Warren, a white planter. According to her lawsuit some years later, in 1703, she reached an agreement with Thomas Savage that she could marry his slave Left, and in return she would bind herself to him as a servant for a seven year term, and the children she had with Left would serve Savage until age eighteen; at the end of seven years, he would be free, and any children they had after that would be free as well⁸⁵.

At the end of Jane's term of service, in 1711, Savage had the court bind her three children to him «according to the law». This effectively extended Jane's children's service an additional three years, because the law of 1703 had set indentures for the children of a freedwoman at twenty-one years. Thus, when Jane began petitioning for the freedom of eighteen-year-old Dinah in 1722, the petition was dismissed. Dinah

did not win her freedom until she turned twenty-one and brought her own suit in 1725. Jane also sued Savage in chancery in 1725 over the status of her other children, charging that he had violated the terms of their original contract. Angry at the court's decision in Savage's favor, Jane declared that «if all Virginia Negroes had as good a heart as she had they would all be free». For these «dangerous words tending to the breach of the peace», she was sentenced to ten lashes the very next day. Savage countered that he had never promised to free Left, and that he could not remember how long her children were to serve. Jane sought to introduce the testimony of other free people of color, and the court took several months to decide whether «Negro evidence» should be allowed. After four months, they decided «none such ought to be allowed», and Jane gave up her suit. Jane's inability to protect her family, the corporal punishment she suffered for making a statement in favor of freedom, and the refusal to admit testimony by free people of color, were all new developments in Northampton County Court⁸⁶.

Jane Webb's son, Abimeleck Webb, also challenged boundaries, telling a white woman with whom he was working that «the Negroes... would be free». When she asked «how they would go about it», he answered, «with their one indeavour and godalmightys assistance or blessing, for what would it be fore the Negroes to go through this County in one nights time». This declaration set off a hue and cry about a «negro conspiracy» in the county and led to other slaves being rounded up for questioning⁸⁷. Webb herself finally gained some relief from the court in 1740 by playing on their sympathies to gain exemption from the head tax, writing, «whereas your petitioner is very old and likewise decrepid and am not able to git tobcco to pay my leavy».

Despite the continuing efforts of some slaves to win freedom, the 1723 ban on manumission severely limited their ability to do so, just as in Louisiana. Yet the people who had become free in the years before 1723 continued to appear in county court records, as the courts tried – apparently unsuccessfully – to crack down on «fornication» and «bastard bearing» among whites, mulattos, and negroes, free and enslaved. These records bear the evidence of extensive mixing among the «lower orders» of all races, blurring the lines between black and white as well as those between slave and free.

Communities of Free People of Color Before 1770

The different manumission legal regimes of Havana, Louisiana and Virginia produced, over time, dramatically different social structures, customs, and «rights». In some fundamental ways, the three societies were roughly similar. By the 1770s, whites constituted the majority of the population in each of them, between 55 and 58 percent of the population. Slaves constituted a sizeable minority, from 30 to 40 percent of the population and were the economic engine of these colonial economies (Table 1). By the size and economic role of their respective slave populations, these were all slave societies.

TAB. 1. *Population by Race and Status, ca. 1770.*

Place, Year	Total Population	Whites (%)	Slaves (%)	Free People of Color as Percentage of	
				Population	Population
Havana, 1774	75,618	57.4	28.1	14.5	20.1
Virginia, ca. 1770	447,016	58.0	41.3	0.6	1.1
New Orleans, 1771	3,127	57.7	39.2	3.1	5.1
				Total Population	Nonwhite Population
				34.0	1.5
				7.3	

Sources. Havana: Comité Estatal de Estadísticas, *Los censos de población y viviendas en Cuba*, Havana 1988, t. 1, vol. 2; Virginia: H.S. KLEIN, *Slavery in the Americas: A Comparative Study of Virginia and Cuba*, Chicago 1967, p. 235; US Census Bureau, *Historical Statistics of the United States, Colonial Times to 1970*, Bicentennial Ed., part 2, 1975, p. 1168; New Orleans: 1771 Census of Louisiana [includes 1769 Census of New Orleans], C. GAVARRÉ, *History of Louisiana: The French Domination*, New York 1867, vol. III, pp. 170-1.

The most significant difference between them concerned the size and importance of the free-colored community. As Kimberly Hanger has argued, a «critical mass» was important for a socially-identifiable, separate free-colored community to exist⁸⁸. By the 1770s only Havana boasted a numerous and well-established community of free people of color. The free population of color, listed as «negros» and «mulattos», represented about 14 percent of the total population, one fifth of the free population, and about one third of the non white population of the city and its district. In New Orleans, still a small urban center in a frontier colony, the free people of color represented only 3 percent of the total population, 5 percent of the free population, and 7 percent of the nonwhite population. The proportion of free blacks was even lower in Virginia, where they represented less than 1 percent of the

total population, and less than 2 percent of either the free or the black population.

Compared to Havana's sizable community, there is no doubt that the numbers in Louisiana and Virginia were very small. Yet a few caveats are in order. In certain Virginia counties, the proportion of free people of color was far greater. In Northampton County, up to 29 percent of the black male population in 1668 was free and 16 percent of the non-white population overall; by the end of the period, in 1770, free people of color still made up 12.5 percent of the non-white population, and numbered nearly 13,000 altogether.⁸⁹ When the first U.S. Census was taken in 1790, there were ten Virginia counties in which people of color made up more than 8 percent of the total free population, including nearly 15 percent of the free population of Charles City County and York County. And in Louisiana, it is possible that the 1769 census of New Orleans did not reflect the entire population of free people of color. Gwendolyn Midlo Hall's database of surviving records alone shows a greater number of manumissions during the French period (119) than the number who appear in the 1769 census.⁹⁰ Also, a specialized census of free people of color commissioned by Governor O'Reilly in 1770, and administered by a free man of color, Nicolas Bacus, known as Capitaine Moraine, counted 195 free men of color eligible for the militia.⁹¹ As this number omitted women and children, it is possible that the total numbers were as high as 400-800 by 1770. Yet, even with these revisions, there is no doubt that free people of color in Virginia and Louisiana, on the eve of the revolutionary era, faced a radically different situation to that of their fellow freedpeople in Havana.

By 1770, Virginia lawmakers and planters had achieved the greatest success in reducing free people of color to the status of «slaves without masters», as Ira Berlin called them. But as historians Tim Breen and Stephen Innes have argued, «the process of black debasement and degradation was not linear and foreordained» in Virginia. For two generations in the seventeenth century, English and African men and women interacted «on terms of relative equality».⁹² Breen and Innes argue that «property made the difference», that «black peasants» on the Eastern Shore lived with their white neighbors on relatively equal terms because they owned land, livestock and even servants of their own.⁹³ J. Douglas Deal, Michael Nicholls and Paul Heinegg agree that Africans and African Americans enjoyed a higher status in the seventeenth century than in later years, and that the move to limit the rights of free people of color was hardly an «unthinking decision» (as Winthrop Jordan famously termed it), but they suggest that property was less important to blacks' shifting status than deliberate legal reforms. That is,

free people of color were still able to own property in the eighteenth century; what made the difference to their status was that whites, fearing slave conspiracies and other consequences of racial mixing, began to deny basic legal rights to free people of color, making «freedom» a less meaningful status. In 1723, for example, the legislature passed a law against voting or officeholding by any «Free negro, mulatto or indian». Gooch explained to royal officials that this exclusion was necessary as a «perpetual Brand» on blacks as different and inferior to whites.⁹⁴

During the seventeenth century, free people of color on the Eastern Shore lived dispersed among whites, raising livestock and growing tobacco. Some planters owned significant acreage of land, livestock, guns and other personal effects. They participated in networks of patronage and trade with whites as well as other free blacks. These free «negros» and «mulattoes» used the county courts frequently to sue whites and other free people of color for unpaid debts, to record deeds transferring cattle and other property, to bind out their children as servants, and to petition for their the freedom of their children or to secure their own free status. They gave testimony against whites and often won their cases against whites. They also appear frequently in the court records, as do white servants, for «fornication» and «bastard bearing».⁹⁵

Anthony Johnson is the most celebrated of the Eastern Shore's free people of color, reputed by some to have owned a dozen servants including white servants. The court records do not bear evidence of white servants, however, it is certain that Johnson owned upwards of two hundred and fifty acres of land and at least two black servants, as well as several herds of livestock. In 1654, he won a lawsuit against his white neighbor for the return of Johnson's slave John Casor, who had been staying on the neighbor's property. Despite Johnson's relative prosperity and success in the county courts, he still suffered on the basis of his race in court, at least after death. His land reverted («escheated») to the Crown when he died in 1670 because «he was a Negroe and by consequence an alien».⁹⁶

The dramatic shift in fortunes of people of color on the Eastern Shore in the eighteenth century suggests the power of legal regulation. Of course, after Bacon's Rebellion, in addition to the legal changes instituted in Richmond, there was an enormous demographic shift, as large numbers of slaves began to be imported directly from Africa, dwarfing the small population of free people of color. Virginia had become a slave society. Yet, those free people of color who remained continued to mix with whites as well as slaves, and they were well positioned to take advantage of the legal changes that occurred another century later,

in 1782, when manumission and self-purchase again became available. And despite stricter penalties for interracial sex outside marriage, there continued to be a steady stream of interracial fornication and bastardy cases in eighteenth-century county courts in Virginia, leading to a growing «mulatto» population.

Louisiana looked quite similar to Virginia during the same years: restrictive rules regarding manumission and intermarriage from 1724 to 1769 meant relatively few people became free or married across racial lines, but illicit interracial relationships continued to take place. In New Orleans, there was a free population of African descent since early colonial times, but their numbers were also extremely low. The restrictions on manumission placed by the Code Noir effectively impaired the emergence of a community of free people of color, which did not exist as a separate, identifiable community by the time the Spaniards seized control of the colony in the 1760s⁹⁷. Moreover, in addition to the legal obstacles built by the Code Noir concerning manumissions, French colonial law allowed the re-enslavement of manumitted slaves under various circumstances. According to article 34 of the Code Noir, free blacks who harbored fugitive slaves were subject to steep fines, but they were to be sold as slaves if they could not afford to pay them. The law did not distinguish in this aspect between «freed» and «free-born» blacks. The Ordinances of 1751 were even stricter, in that they eliminated fines and ordered the automatic reenslavement of «all free Negroes and Negroesses» guilty of harboring fugitives. Free blacks charged with other crimes, such as theft, were also condemned to reenslavement. In 1743, for instance, the Superior Council condemned «free negro» Jean Baptiste «in reparation of his theft to be again reduced to slavery»⁹⁸.

The situation was different in Havana, where a well-established community of free blacks existed since the early seventeenth century. As early as 1574, an important body of local law, the Cáceres Ordinances, made reference to the existence of «many» freedmen who lived in town and who were described as «vecinos»⁹⁹. Both manumission and interracial marriage and sex remained unregulated before 1776, the first law against «unequal» marriages, which gave rise to a substantial community of free people of color, a majority of them «mulatto». The community was large enough that by 1600 it sustained two religious confraternities, one devoted to Our Lady of the Remedies and the other to the Holy Spirit. Free blacks customarily gave alms to these confraternities in their wills and contributed to the acquisition of real estate and ornaments for them¹⁰⁰. The confraternity of the Holy Spirit purchased its own building in 1604 and eventually became a new parish, which was created around the mid-seventeenth century. In 1635 the

Bishop reported that due to the growth of the city, «we will have a new parish because the blacks [los morenos] want to build a temple to the Holy Spirit... to have in it their burials; they are building it, they are many and it will be easy». In 1640 they purchased a new house, which was probably used to build their church¹⁰¹. By the 1640s the church was finished and its square served as a social space that «all blacks» used in festivities «to dance and entertain themselves, with the approval of the Bishop and license from the Governor... with this they collect charity for masses, for the dead, and for the service of the Holy Sacrament»¹⁰². When the first synod of the Cuban diocese reviewed the existence of religious confraternities in 1681, the one devoted to the Holy Spirit «of free blacks, in their parish» was confirmed¹⁰³.

Free blacks also performed military duties and participated in the colonial militia since the late sixteenth century. It is noteworthy that when the first military census was issued by local authorities in 1582, it included freedmen, who represented about 11 percent of all individuals fit to serve. Among those listed was Hernandez de Salazar, «moreno», who was described as «captain of the blacks»¹⁰⁴. In 1630 the «captain of the company of the freed blacks» («negros horros») was free black Luis Rodriguez de la Soledad; in 1694 it was «captain Francisco Ponce»¹⁰⁵. By 1760 the militia companies of free blacks («morenos») and mulattoes («pardos») had 2,493 soldiers, 60 percent of the militia men in the city. Participation in the militia conferred them with status and privileges. Many of these soldiers were successful artisans and shop owners who were themselves slave owners. In 1757 the captains of the battalions of «pardos» and «morenos» provided uniforms for their own troops. A mid-eighteenth century description of Havana made reference to this group of prosperous free people of color, arguing that locally-born «negros» and «pardos» were very competent in the exercise of crafts, including those that required «greater ability, refinement and genius, such as silversmith, sculpture, painting, and carving, as can be seen in their marvelous works»¹⁰⁶.

The consolidation of a free colored community in early colonial Havana did not happen due to the favorable «attitude» of local residents, as Tannenbaum would have it. In fact, there is evidence to sustain the opposite argument: that this community developed despite the efforts of the local elite who sought to circumscribe and debase free blacks as much as possible. Nothing illustrates this better than the attempt, spearheaded by the town council of Havana in 1565, to expel all freed people, on the argument that their presence was «damaging» to the city¹⁰⁷. The attempt did not prosper, but the development of a free colored community in Havana owed little to the attitudes of local

both French New Orleans and the Eastern Shore of Virginia developed significant free communities of color, they both paled in size and in power to that of Havana. The strength and size of the free colored community made an important difference to the efforts in all three societies of white elites to draw a sharp line between black and white, slave and free. The very existence of free people of color challenged the association between race and status, an ideal pursued by legislators in all three regions. Moreover, a larger community of free people of color was able to provide additional resources and network support for slaves seeking their own freedom. Legal precedents did not necessarily determine the course of these histories, but did play an important role in creating different demographic and social realities with lasting effects.

ALEJANDRO DE LA FUENTE, ARIELA GROSS

Note al texto

1 Contract of Tioou with Director of Hospital, July 15, 1737; *Records of the Superior Court of Louisiana*, reprinted in «Louisiana Historical Quarterly» (hereafter RSC-LHQ), vol. 4 (1921), pp. 366-8. On the origins of the hospital, see J. SALVAGGIO, *New Orleans's Charity Hospital: A Story of Physicians, Politics and Poverty*, Baton Rouge 1992, pp. 11-3.

2 Holographic Will of Jean Luis, 1735; RSC-LHQ, vol. 3 (1920), pp. 555-7.

3 G. MIDLO HALL, *Databases for the Study of Afro-Louisiana History and Genealogy*, 1699-1860, Free Database, 2000.

4 Petition of the Directors of the Charity Hospital of New Orleans to Gran Freedom to Marie Aram, a Negress Slave, March 6, 1744; RSC-LHQ, vol. 3 (1920), pp. 551-3.

5 An Act to Free Will, a Negro Belonging to Robert Ruffin, Act 16 (Oct 1710), in W.W. HENING (ed.), *The Statutes at Large: Being a Collection of All the Laws of Virginia* (hereinafter *Laws of Virginia*), New York 1823, vol. 3, pp. 537-8.

6 «Petición y sentencia en la causa por la libertad de los negros esclavos Cristobal mina y Jose mina», November 17, 1691. Archivo Nacional de Cuba (ANG), *Protocolos Notariales de la Habana* (PNH), *Escrituras Formaris*, 1691, fol. 343.

7 For more on this literature, see generally A. DE LA FUENTE, A. GROSS, *Comparative Studies of Law, Slavery, and Race in the Americas*, in «Annual Review of Law & Social Science», 6 (2010), pp. 469-85.

8 Ivi, pp. 470-3.

9 F. TANNENBAUM, *Slave and Citizen: The Negro in the Americas*, New York 1946, pp. 62-82, 103.

10 For an in-depth summary of the literature, see generally A. DE LA FUENTE, *From Slaves to Citizens? Tannenbaum and the Debates on Slavery, Emancipation, and Race Relations in Latin America*, in «International Labor & Working Class History», 77 (2010), pp. 154-73; Ivi, *Slave Law and Claims-Making in Cuba: The Tannenbaum Debate Revisited*, in «Law & History Review», 22 (2004), pp. 339-70.

11 For a discussion of this literature, see generally A. GROSS, *Beyond Black and White: Cultural Approaches to Race and Slavery*, in «Columbia Law Review», 94 (2001), pp. 640-90.

powerbrokers. Not even military service protected «pardo» militiamen from humiliation and degradation. As the captain of one of the companies complained in 1714, some people insulted them, calling them «dogs and mulattos». His request to the King was powerfully simple, an excellent illustration of how the free people of color struggled to achieve social standing and respect. He simply wanted to be addressed by his name.¹⁰⁸

Conclusion

Across the Americas, enslaved people sought freedom for themselves and their family members by any means possible. Most often, they achieved free status through hard work, financial accumulation, negotiation, and sometimes legal confrontation. Frequently, manumissions were not a private matter, but involved the mediation and consent of public authorities. Yet opportunities for self-purchase and other forms of manumissions varied according to time and to place. In Havana over the course of the sixteenth through eighteenth centuries, manumission never faced serious legal challenge. Although there is evidence that slaveowners and local authorities resented the existence and social assertiveness of free blacks, they were constrained by a deep rooted legal and institutional order in which the possibility of manumission was firmly entrenched. Furthermore, practices of gradual self-purchase such as *coartación* became more firmly entrenched in custom, leading to the creation of ambiguous intermediate categories that did not fully fit with either slavery or freedom. In Louisiana, a restrictive legal code d by local slaveholding practices in the earlier-established French colonies guaranteed that manumission would remain a rare phenomenon during the years 1724-1763. By the time the Louisiana Code Noir was promulgated, the manumission regime of the French Caribbean colonies had become increasingly restrictive. These restrictions were codified in the slave law of Louisiana. By contrast in Virginia, where settlers had no comparable legal precedents to draw on, a period of relatively easy manumission and self-purchase in the seventeenth century was followed by severe restrictions in the eighteenth century. Compared to Havana, where manumission was conceived primarily as a slaveowner prerogative and a private matter, manumissions in the restrictive legal regimes of eighteenth-century Virginia and Louisiana required the approval of local authorities.

These varying trajectories led to formation of significantly different communities of free people of color in the three colonies. Although

- ¹² See K. GRINBERG, *Freedom Suits and Civil Law in Brazil and the United States*, in «Slavery & Abolition», 22 (2001), pp. 66-82, p. 78.
- ¹³ We explore these efforts in A. GROSS, A. DE LA FUENTE, *Slaves, Free Blacks, and Race in the Legal Regimes of Cuba, Louisiana and Virginia: A Comparison*, in «North Carolina Law Review», 91 (2013), pp. 1699-1756.
- ¹⁴ M. HARRIS, *Patterns of Race in the Americas*, Westport 1964, pp. 84-92; C.N. DEGLER, *Neither White nor Black: Slavery and Race Relations in Brazil and the United States*, Madison 1971, p. 44 («the free blacks and mulattoes were needed... They filled the innumerable petty jobs, the interstitial work of the economy»).
- ¹⁵ DEGLER, *Neither Black nor White* cit., pp. 39-47; T. INGERSOLL, *Mammon and Manon in Early New Orleans*, Knoxville 1999, pp. 221-34; D.G. EDER, *Time Under the Southern Cross: The Tannenbaum Thesis Reappraised*, in «Agricultural History», 50/4 (1976), pp. 600-14; D.C. RANKIN, *The Tannenbaum Thesis Reconsidered: Slavery and Race Relations in Antebellum Louisiana*, in «Southern Studies», 18/1 (1979), pp. 5-31.
- ¹⁶ TANNENBAUM, *Slave and Citizen* cit., p. 69.
- ¹⁷ S. SCHWARTZ, *Sugar Plantations in the Formation of Brazilian Society: Bahia, 1550-1835*, New York 1985, p. 252; A. DELA FUENTE, *Havana and the Atlantic in the Sixteenth Century*, Chapel Hill 2008, pp. 171-3; C. BERNARD, *Negros esclavos y libres en las ciudades Hispanoamericanas*, Madrid 2001, pp. 118-9; A.F. SILVA, *La esclavitud en Sevilla y su tierra a fines de la Edad Media*, Sevilla 1979, pp. 246-8.
- ¹⁸ See G. REID ANDREWS, *Afro-Latin America, 1800-2000*, Oxford 2004, pp. 86-92; see also M. LASSO, *Myths of Harmony: Race and Republicanism During the Age of Revolution, Colombia, 1795-1831*, Pittsburgh 2007, pp. 9-11.
- ¹⁹ As historian Stuart Schwartz has argued, the ease by which a person could move from legal slavery to legal freedom was indeed «an essential measure of a slave regimes», one that had important long-term consequences; SCHWARTZ, *Sugar Plantations* cit., p. 253.
- ²⁰ A.C. DE C.M. SAUNDERS, *A Social History of Black Slaves and Freedmen in Portugal, 1441-1555*, Cambridge 1982, p. 138.
- ²¹ J.L.C. LÓPEZ, *La esclavitud negra en la España peninsular del siglo XVI*, Salamanca 1989, pp. 228-35; W.D. PHILLIPS JR., *Historia de la esclavitud en España*, Madrid 1990, pp. 175-6.
- ²² SILVA, *La esclavitud en Sevilla* cit., pp. 247, 261-72; SAUNDERS, *A Social History* cit., pp. 54-7; PHILLIPS JR., *Historia de la esclavitud* cit., p. 177.
- ²³ S. EPSTEIN, *Speaking of Slavery: Color, Ethnicity, and Human Bondage in Italy*, Ithaca 2001, pp. 170-1, 178; M. BLOCH, *Slavery and Serfdom in the Middle Ages*, Los Angeles 1975, p. 14; SAUNDERS, *A Social History* cit., p. 138.
- ²⁴ G. AGUIRRE BELTRAN, *La población negra de México, 1519-1810: Estudio etnohistórico*, México D.F., 1972, p. 281.
- ²⁵ D. BLUMENTHAL, *Demandas de Libertad: demandas de esclavos en el medievo tardío valenciano*, in «Debate y Perspectivas», 4 (2004), pp. 23-36.
- ²⁶ Royal cedula, 9.11.1526, Archivo Nacional de Cuba, *Academia de la Historia*, leg. 80, n. 7.
- ²⁷ Royal cedula, 15.4.1540, later L. 8, Tit. 5, Libro 7 of the *Recopilación de leyes de los reinos de las Indias*, Madrid 1681; Royal cedula, 11.5.1527, in D. DE ENCINAS, *Cédulario Indiano*, Madrid 1945-1946 [1596], vol. 4, pp. 385-6.
- ²⁸ The discussion of manumission in early colonial Havana (1585-1610) is based on DE LA FUENTE, *Havana and the Atlantic* cit., pp. 170-9 and Id., *A Alforria de Escravos em Havana, 1601-1610: Primeiras Conclusões*, in «Estudos Econômicos», 20 (1990), pp. 139-59.
- ²⁹ F.P. BOWSER, *The Free Person of Color in Mexico City and Lima: Manumission and Opportunity, 1580-1650*, in S.L. ENGERMAN, E.D. GENOVESE (eds), *Race and Slavery in the Western Hemisphere: Quantitative Studies*, Princeton 1975, pp. 331-68.

- ³⁰ The eighteenth-century Havana figures come from M. MORENO FRAGINALS, *Peculiaridades de la esclavitud en Cuba*, in «Del Caribe», IV/8 (1987), pp. 4-10.
- ³¹ H.S. KLEIN, *African Slavery in Latin America and the Caribbean*, Oxford 1986, p. 227.
- ³² For a discussion of gender and manumissions, see K. HIGGINS, «Licentious Liberty» in a Brazilian Gold-Mining Region: *Slavery, Gender, and Social Control in Eighteenth-Century Colonial Brazil*, *Bahia, 1684-1745*, in «Hispanic American Historical Review», 54 (1974), pp. 603-35; F.P. BOWSER, *The Free Person of Color in Mexico City and Lima: Manumission and Opportunity, 1580-1650*, in S.L. ENGERMAN, E.D. GENOVESE (eds), *Race and Slavery in the Western Hemisphere: Quantitative Studies*, Princeton 1975, pp. 331-63, p. 350; L.L. JOHNSON, *Manumission in Colonial Buenos Aires, 1776-1810*, in «Hispanic American Historical Review», 59 (1979), pp. 258-79, p. 262; K. DE QUEJOS MATTOSO, *To Be A Slave in Brazil: 1550-1888*, Piscataway Township 1986, pp. 163-4; KLEIN, *African Slavery in Latin America* cit., p. 227.
- ³⁴ ANC, PNH, *Escrituraria Regueira*, 1602, fol. 48; ANC, *Protocolos Notariales de Santa Clara, Escrituras Sahnador González y Manuel Rodríguez*, 1691-1696, fol. 4.
- ³⁵ ANC, PNH, *Escrituraria Fornaris*, 1690, fol. 45.
- ³⁶ Ivi, 1694, fol. 257.
- ³⁷ These cases are registered in the «Actas Capitulares del Ayuntamiento de la Habana», 1650-1700. The Actas only contain a brief notation about the case, not the case itself. The actual judicial dossiers do not seem to exist.
- ³⁸ FRAGINALS, *Peculiaridades* cit., p. 7.
- ³⁹ Archivo del Museo de la Ciudad de la Habana, *Actas Capitulares del Ayuntamiento de la Habana Transcritas* (hereafter ACAHT), vol. 1672-1683, fol. 329v.
- ⁴⁰ Royal cedula of 24 September, 1750. ANC, *Reales Cédulas y Ordenes*, leg. 2, no. 120. Additional references to these regulations appear in J.M. ZAMORA y CORONADO, *Biblioteca de legislación ultramarina*, Madrid 1844-1847, vol. 3, p. 128, and in F. ORTIZ, *Hampa Afro-Cubana: Los negros esclavos: Estudio Sociológico y de Derecho Público*, Havana 1916, p. 320.
- ⁴¹ INGERSOLL, *Mammon and Manon* cit., pp. 77-8.
- ⁴² D. USNER, *From African Captivity to American Slavery: The Introduction of Black Laborers to Colonial Louisiana*, in «Louisiana History: The Journal of the Louisiana Historical Association», 20 (1979), pp. 25-48.
- ⁴³ G. DEBIEN, *Les esclaves aux Antilles Françaises, XVIIe-XVIIIe siècles*, Indianapolis 1974, pp. 371-3; G. AUBERT, «To Establish One Law and Definite Rules»: *Race, Religion, and the Transatlantic Origins of the Louisiana Code Noir*, in V. CÉCILE (ed.), *Louisiana: Crossroads of the Atlantic World*, Philadelphia 2014, p. 39.
- ⁴⁴ MIDLO HALL, *Dutabayer* cit.; T. INGERSOLL, *Free Blacks in a Slave Society: New Orleans, 1718-1812*, in «William and Mary Quarterly», 48 (1991), pp. 173-200, p. 177.
- ⁴⁵ RSC-LHQ, vol. 8 (1925), pp. 143-4. In this case, however, freedom was denied because the master «owed three times as much as his goods were worth» so the Government denied consent.
- ⁴⁶ Ivi, vol. 8 (1925), pp. 118, 143; ivi, vol. 5 (1922), pp. 377, 403; ivi, vol. 23 (1940), pp. 889, 924.
- ⁴⁷ Ivi, vol. 5 (1922), pp. 239, 250.
- ⁴⁸ Ivi, vol. 6 (1923), pp. 283, 303.

- 49 Ivi, p. 304.
- 50 Ivi, vol. 18 (1935), pp. 430, 440.
- 51 MIDLO HALL, *Databases* cit.
- 52 RSC-LHQ, vol. 15 (1932), pp. 133-4.
- 53 Several re-enslavements of properly manumitted slaves are noted in Superior Council Records. Jean-Baptiste was re-enslaved for theft of clothes, for example. Fabry v. Jean-Baptiste, RSC-LHQ Sept. 1743. S. DAWDY, *Building the Devil's Empire: French Colonial New Orleans*, Chicago 2008, p. 181, argues that unsanctioned manumissions were common, but her assertion rests on limited evidence.
- 54 R. SCOTT, J. HERRARD, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation*, Cambridge 2012, p. 19.
- 55 RSC-LHQ, vol. 6 (1923), p. 303, March 4, 1739.
- 56 L. HIGGINBOTHAM, *In the Matter of Color: Race and the American Legal Process*, Oxford 1978, p. 47.
- 57 Minutes, Mar. 31, 1641, in *Minutes of the Council and General Court of Colonial Virginia 1622-1632, 1670-1676*, edited by H.R. MCLWANE, Richmond (VA) 1924.
- 58 Ivi, p. 513 (minutes from Sept. 24, 1668).
- 59 Ivi, p. 316 (minutes from Oct. 5, 1672).
- 60 28 Feb. 1652, Northampton County Orders, Deeds, Wills 1651-54, fol. 161, 226, available at Library of Virginia [hereafter LVA]; Orders, 1655-58, fol. 10, LVA; Va. Genealogist 2:20, pp. 109-113. P. HEINEGG, *Free African Americans of North Carolina, Virginia, and South Carolina*, Baltimore 2005, vol. 2, pp. 705-6; J. DOUGLAS DEAL, *Race and Class in Colonial Virginia: Indians, Englishmen, and Africans on the Eastern Shore during the Seventeenth Century*, New York 1993, pp. 219-21.
- 61 Manumissions of Mongom, Black Jacke, Nese, Basha, Northampton County Court Orders, 1654, 1659; Deeds, Wills 1657-66, pp. 70, 74, LVA; William Johnson assigning cattle to his son John Johnson, 31 Aug. 1659 and 21 Oct. 1659, available online, www.freeafricanamericans.com, transcribed by Paul Heinegg.
- 62 Northampton County Deeds, Wills 1645-51, 39, fol. 217; 1654-55, fol. 25, 54; 1651-54, 33, fol. 33; Orders 1657-64, fol. 173, 175, LVA; HEINEGG, *Free African Americans* cit., pp. 839-40; DEAL, *Race and Class* cit., pp. 383-93.
- 63 Northampton County Deeds, Wills, 1645-51; Deeds, Wills, 1651-54, fol. 118, 174, LVA; DEAL, *Race and Class* cit., pp. 267-68.
- 64 Northampton County Deeds, Wills 1657-66, 70, 74, LVA; DEAL, *Race and Class* cit., pp. 398-412.
- 65 Upper Northampton Court [Accomack County], 18 January 1671/72, p. 140.
- 66 R. GOETZ, *The Baptism of Early Virginia: How Christianity Created Race*, Baltimore 2012, pp. 102-3.
- 67 Northumberland Record Book, 1652-58, pp. 66-67, 85a-85b; GOETZ, *Baptism of Early Virginia* cit.; W. BILLINGS, *The Cases of Fernando and Elizabeth Key: A Note on the Status of Blacks in Seventeenth-Century Virginia*, in «William and Mary Quarterly», 30 (1973), pp. 467-74, p. 468.
- 68 *Minutes of the Council* cit., minutes from Mar. 31, 1641, p. 477; «An act declaring that baptisme of slaves doth not exempt them from bondage», Act 3, *Laws of Virginia* cit., Vol. 2 (Sept. 1667), p. 260.
- 69 GOETZ, *The Baptism of Early Virginia* cit., p. 108.
- 70 York County Deeds, Orders, and Wills (10) 137, 6 April 1695, available at http://www.virtualjamestown.org/yorkfreedomcases/1685_1715.html.
- 71 HEINEGG, *Free African Americans* cit., p. 707.

- 72 Manumission of Jeane, 1672, Accomack County Orders 1671-73.
- 73 Manumission of Basha, 1659, Northampton County Court Orders, 1654-1695.
- 74 Northampton Wills & Orders, book no. 13, 1689-98, Va. Colonial Court Records, microfilm n. 27a, pp. 62, 64-65, LVA.
- 75 An Act for Suppressing Outlying Slaves, Act 16, *Laws of Virginia* cit., Vol. 3 (April 1691), pp. 86-8.
- 76 *Minutes of the Council* cit., vol. 3, p. 332.
- 77 An Act Directing the Trial of Slaves, Act 17, *Laws of Virginia* cit., Vol. 4 (May 1723), p. 132.
- 78 M.L. NICHOLLS, *Strangers Setting Among Us: The Sources and Challenge of the Urban Free Black Population of Early Virginia*, in «The Virginia Magazine of History and Biography», 108 (2000), pp. 155-79, p. 153.
- 79 *Minutes of the Council* cit., vol. 3, pp. 199, 217.
- 80 Ivi, 4, pp. 315, 366; ivi, 5, pp. 60, 298.
- 81 Two of these cases are mentioned by L. ROWE, *After 1723, Manumission Takes Careful Planning and Plenty of Savvy*, in «Colonial Williamsburg Interpreter», Summer 2004, available at <http://www.history.org/history/teaching/ewnewsletter/volumes/february05/manumission.cfm>.
- 82 *Minutes of the Council* cit., vol. 5, pp. 196, 215.
- 83 Ivi, 3, pp. 277-78, 442.
- 84 Petition of Thomas Ferrrell, Fol. 1, Pk. 5, April 1723, Northampton County Free Negro and Slave Records, 1723-1808, Barcode 1168313, LVA; Petition of Nanny Bandy, alias Judea, Fol. 1, Pk. 18, Aug. 1732, LVA; Will, mulatto, held illegally in slavery, Fol. 1, Pk. 33, Sept. 1747, LVA; Indian Will illegally held as a slave, Fol. 1, Pk. 33, Sept. 1747, LVA.
- 85 Jane Webb v. Thomas Savage, 1726, Northampton County Chancery Court Records, 1721-1760, LVA.
- 86 *Ibidem*.
- 87 King vs. Webb, 1750, Northampton County Loose Papers and Sundry Court Cases, 1744-1761, LVA.
- 88 K. HANGER, *Bounded Lives, Bounded Places: Free Black Society in Colonial New Orleans, 1769-1803*, Durham 1997, pp. 17-8.
- 89 Northampton County Tirable Lists of 1666 and 1670; T. BREEN, S. INNES, «Myne Oume Grounds: Race and Freedom on Virginia's Eastern Shore, 1640-1676», Oxford 2004, pp. 68-9.
- 90 MIDLO HALL, *Databases* cit.
- 91 S. DAWDY, *Building The Devil's Empire: French Colonial New Orleans*, Chicago 2009, pp. 178-9.
- 92 BREEN, INNES, *Myne Oume Ground* cit., p. 5.
- 93 *Ibidem*.
- 94 DEAL, *Race and Class* cit.; NICHOLLS, *Strangers Setting Among Us* cit., p. 151; HEINEGG, *Free African Americans* cit.
- 95 Northampton County Free Negro and Slave Records, 1723-1808; Northampton County Loose Papers and Sundry Court Cases, 1744-61; Northampton County Criminal causes, 1722-99; Accomack County Court Orders, 1703-99; BREEN, INNES, *Myne Oume Ground* cit., pp. 92-4.
- 96 HEINEGG, *Free African Americans* cit., p. 706.
- 97 T. INGERSOLL, *Slave Codes and Judicial Practice in New Orleans, 1718-1807*, in «Law and History Reviews», 13 (1995), pp. 23-62, p. 39.
- 98 C. GAYARRÉ, *History of Louisiana: The French Domination*, New York 1867, pp. 363-4; Judgment Rendered by the Superior Council, 1743, RSC-LHQ, 12 (1929), p. 147.

- 99 Article 53 of the Ordinances in L. MARRERO, *Cuba: Economía y Sociedad*, Madrid 1974, 14 voll, 2, p. 437.
- 100 ANC, PNH, *Escritania Regueira*, 1600, fol. 83; 1605, fol. 810; 1601, fol. 635; 1609, fol. 385v.
- 101 ANC, PNH, *Escritania Fornaris*, 1640, fol. 27.
- 102 ANC, PNH, *Escritania Regueira*, 1604, fol. 557v.; 1606, fol. 515v. Bishop Gerónimo de Lara to the King, no date, 1635. Archivo General de Indias, *Santo Domingo*, leg. 150, tomo 3; «Relación del Obispado de Cuba», 1636. Biblioteca Nacional, Madrid, Ms. 3000.
- 103 J.G. PALACIOS, *Sinodo de Santiago de Cuba de 1681*, Madrid 1982, p. 11.
- 104 Diego Fernández de Quñones to the King, 12 December 1582. ANC, *Academia de la Historia*, leg. 82, no. 110.
- 105 ACAHT, vol. 1630-1639, fol. 7 (September 3, 1630); ANC, PNH, *Escritania Fornaris*, 1694, fol. 422.
- 106 MARRERO, *Cuba* cit., 8, pp. 163, 165; J. ACOSTA, *Llave del Nuevo Mundo, antemural de las Indias Occidentales: La Habana descripta*, Mexico 1827, p. 95.
- 107 ACAHT, 26 November 1565.
- 108 MARRERO, *Cuba* cit., 8, p. 164.