



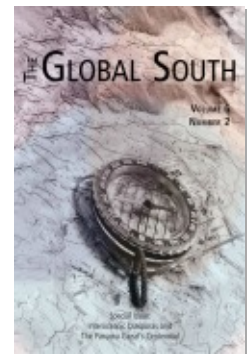
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States of Ghetto, Ghettos of States: Haiti and the “Era de Francia” in the Dominican Republic, 1804–1808

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States of Ghetto, Ghettos of States: Haiti and the “Era de Francia” in the Dominican Republic, 1804–1808

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ABSTRACT

In December 2009, the “Ghetto Biennale,” billed as a *salon des refusés* for the 21st century, was held in Port-au-Prince, Haiti, a country already rhetorically ghettoized within its planetary neighborhood by the label “the poorest country in the Western hemisphere.” Within Haiti, the Cité Soleil ghetto is often treated as a war zone within a country that is not at war, or like a criminal version of a civil zone — an uncivil zone. In Cité, events like the post-Aristide United Nations Minustah campaign popularly named “Without Pity for the City” recently found an unexpected counterpart in the May 2010 military and police operations in Tivoli Gardens and elsewhere in Kingston, Jamaica. Tivoli Gardens, like Cité Soleil, raises many questions of the freedoms, unfreedoms, and quasi- or anti-states built on the margins of constitutional zones. This essay proposes that the power of forcibly excluded demographic elements to ultimately leverage influence beyond the boundaries of the state, as in the case of the varied communities affiliated with Christopher Dudus Coke, is proportional to the struggles of the state itself to refine its image and consolidate its power internationally. From Haiti, the earliest example of a self-emancipated Afro-diasporic postcolonial state, we can glean the devastating obstacles to the establishment of internationally recognized sovereignty. I chart here the trajectory through which Haiti’s 1804 sovereignty was recast internationally as a paradox of sovereign *brigandage* — an outlaw state — through legal challenges from the French in Santo Domingo to international commerce in Haitian ports. This 1804–1808 legal assault on Haiti issuing from the *era de Francia* in what is now the Dominican Republic can help us to understand Haiti’s willingness to try to expel

brigandage from its own sovereignty with little heed to the constitutional rights of citizens of its ghettos.

And if we, as men who desire to be free because we can be free, are still known in France by the appalling epithet of “brigands,” let France send back to fight us, if she can, the paltry ranks of French soldiers who were spared by our climate and our humanity.

JEAN-JACQUES DESSALINES, “JOURNAL OF THE NORTHERN CAMPAIGN”

In late May 2010, Tivoli Gardens and other so-called “garrison communities” in Kingston suddenly emerged in sharp relief as war zones within a country that was not at war, or as criminalized versions of a civil zone — an uncivil zone. The localized civil conflict in Kingston recalled a longer and less journalistically visible history of military incursions in other slums in postcolonies. In the context of Haitian slums, one particularly homophonous example was the December 2006 MINUSTUH (“Mission des Nations Unies pour la Stabilisation en Haïti”) engagement, popularly known as “Without Pity for the City,” or “Without Pity for Cité Soleil” (Sprague). In early December 2010, the Brazilian government announced not only that its army would occupy neighborhoods known as *favelas* in Rio de Janeiro, but that its military had gained the skills necessary for such an operation against its own citizens through service with MINUSTAH in Haiti: “Defense Minister Nelson Jobim said the army would be able to draw on its years of experience heading the United Nation’s peacekeeping mission in Haiti” (“Brazil Army”). Tivoli Gardens and the *favelas* of Brazil, like Cité Soleil, raise many questions of the freedoms, unfreedoms, and quasi- or anti-states built on the margins of constitutional zones. Yet it is important to remember, as the work of Mike Davis and other scholars of our “planet of slums” has shown, that communities beyond the reach of government benefits, civil liberties, and constitutional protections — more and more fluently connected via cell phones, pirated electricity, and criminal repatriation projects — have increasingly transnational commercial, technological, and social networks. On the margins of what Davis calls “the daily violence of economic exclusion” (202) in the new millennium, ghettos have their own paradoxical powers; state efforts to control ghettos take on more and more of the appearance of civil war.

There is a complex genealogy of examples of potent leverage beyond the state emerging from exclusion by state powers. Such examples range from resistance by feudal leaders within newly centralized monarchies — witness the nexus of honor systems, consanguinity, and violence in Spain as famously depicted in *El Cid* — to the emergence of the mafia in western Sicily during Italy’s

period of national unification, which involved the abolition of feudalism among previously independent regional power bases (Lupo 33). Contemporary “garrisons,” “slums,” and “ghettos” may not appear to line up on such a continuum of the imbrication and internal rejection of different states of power because we associate feudalism with the same aristocratic lineages from which monarchies emerged. That, however, may be more of an effect of the romanticization of social standing in past eras — a “liege lord” rather than a “big man,” a “don,” or a “gangster” — than of any immutable distinction. Slums yield economic “aristocracies” with associated political powers, as has been recently underscored in both Kingston and Port-au-Prince with regards to elections and community translation of party influence.

The ability of forcibly repressed or excluded demographics to ultimately leverage influence beyond the boundaries of the state may be proportional to the struggles of the state itself to refine its image and consolidate its power internationally through marginalization or expulsion of the “undesirable” elements in its profile, even at the cost of the integrity of constitutional protections. Communities in “no exit” cultural spaces may alternate between experiences of severe repression and privation, and periods of remarkably unmediated existence in which the “public thing,” or *res publica*, can morph in relation to unknown or unsanctioned opportunities.

What kinds of ghettos beget other ghettos? From Haiti, the earliest example of a self-emancipated postcolonial state with African diasporan leadership, we can glean the devastating obstacles to the establishment of internationally recognized sovereignty in former colonies in the Caribbean. Haiti has had to fight off its status as a ghetto of states ever since its 1804 sovereignty was recast internationally as a paradox of sovereign brigandage; in the process, conditions for ghettos internal to the Haitian nation arguably were fostered.

The story of the massive indemnity Haiti had to pay to France in 1825 for its national recognition is by now quite familiar. As Christopher L. Miller describes the event: “Haiti buys the right to be forgotten by France” (40). But what has remained virtually unknown is the degree to which the United States engaged, through the mediation of France, in an earlier juridical framing of Haiti’s national status as an illegal structure. Although the history to be recapped here did not lead directly or immediately to ghettoized urban communities in Haiti, it does highlight the profundity and variety of distractions in newly independent Haiti from the intense work of building an early 19th century postcolonial state. The institutional life of a free and egalitarian state that would be translatable to Western standards yet operate in the name of a demographic of those formerly enslaved by the West was, obviously, a fraught proposition. As Jean-Jacques Dessalines noted bitterly in the January 1804 Haitian Declaration of Independence, “Our laws, our standards, our cities, all bear the hallmarks of the French” (*Recueil* 3). Ideally, the creation of a properly postcolonial state

would have involved such confident and painstaking inventions as an infrastructure in the language of the verbal vernacular, Creole (*kreyòl*), which Dessalines had already identified as the only acceptable language for anticolonial expression (cited in Jenson 85). But Dessalines, cognizant in the Declaration of the need for laws for Haitians that could “guarantee your free individuality” (*Recueil* 4), was forced instead to focus on legitimating Haiti internationally at the level of the most basic survival of the state. Such matters as the constitutional articulation of civil rights in Haiti, and the national enforcement of those rights, would have involved turning the gaze of the new nation’s leadership away from external foes ever vigilant for the slightest display of a soft and vulnerable spot.

“BRIGANDS” AND THE STATES OF FREEDOM

From the time Dessalines first announced that “The independence of Saint-Domingue is proclaimed” (Dessalines, Christophe, and Clerveaux) on November 29, 1803, this first black leader of a New World nation warned of Haiti’s inception in a state of ghetto and as the ghetto of states. He spoke to his fellow citizens concerning the imperative of “consolidating our enterprise in such a way that the nations least friendly to liberty will think of us not as a pack of slaves but as men who love their independence” (*Recueil* 13). This would prove to be a very tall order.

In his military journal documenting the French surrender and evacuation in 1803, Dessalines was sensitive to nomenclature. He critiqued the discourse branding the Haitians with “the appalling epithet of brigands” (*Journal of the Northern Campaign* 10). And yet the term “brigand” would continue to be used as a straightforward alternative to the word “Haytians” in an array of journalistic, legal, and political texts. Deploying the word “brigands” absolved recalcitrant international writers from dignifying the aboriginal word for the highlands of Hispaniola chosen by the Haitians to designate themselves as citizens of a new state of freedom — a self-naming which resonated with their political autonomy. It had become such a convention to refer to the Haitians as brigands that after Dessalines was crowned emperor, the *Portsmouth Oracle* on December 1, 1804, allowed itself this witticism: “The Following Ordinances, Translated for the Philadelphia True American, Shew, That It Is No Longer Dessalines Chief of the Brigands in St. Domingo, but Jaques [*sic*], Emperor of Hayti.” In fact, even some writers sympathetic to the Haitian cause used the term “brigands” simply as a conventional means of distinguishing the blacks from the French in the years of their military and political co-habitation in Saint-Domingue, and of making the Haitians recognizable to European readers resistant to their new social incarnation. The contemporaneous historian Marcus Rainsford wrote of being introduced to a “brigand of peculiar intelligence,” but footnoted the word “brigand” as follows:

In the recollection of my stay at Cape François, I use the term *negro* and *brigand* (both derogatory of the ruling power at St. Domingo), not as by any means appropriate to the people they describe at present, but as a means of distinguishing them to the European, who cannot so easily assimilate himself with their present condition. (Rainsford 224 fn. 2)

Dessalines was not the only voice to protest the banal use of the term “brigands” to designate the Haitians. A letter to the editor by a writer identified only as an “Injured Man of Color” in the New York *Commercial Advertiser* on May 25, 1804, engaged directly with the legal implications of calling trading partners “brigands.” He was alluding to the fact that the Americans, delighted by the New World defeat of Napoleon, had rushed to fill the void of the French colonial economy. How could American merchants conducting trade with Haitians, he asked, portray themselves as conducting honest commerce if they had cast their partners as criminals? To his mind the question was clear: Weren’t traders with brigands also brigands? He wrote,

I wish to ask the several captains, who trade at St. Domingo, why they apply the title of brigands and robbers to the people of that Island? Individuals of any nation may rob or plunder; but would it not be extremely improper and unjust to brand the citizens of that nation, indiscriminately, with the odious name of robbers? It is a maxim which, I believe, is sanctioned by the legislatures and courts of justice, that he who receives stolen goods, knowing them to be such, is equally criminal with him who has stolen them. It is very strange, that masters of vessels, who go [to] that island, and hold commercial intercourse with robbers, [would not be] ashamed to return to an honest land, and boast of the dishonorable fact to their families and friends. (“An Injured Man of Color.”)

The “injured man of color” also pointed to the analogy between the Americans, who had been cast as “rebels” and “traitors” in their struggle for independence from the British, and the Haitians in their fight against their French colonizers. He queried, “Did not your souls spurn at the man who dared call you rebels and traitors? Is not the cause for which the Haytians fought the same in principle with yours?” Yet the history of Haiti is replete with instances in which slave-holding or colonial metropolises in effect represented themselves as states of unquestioned freedom, while the citizens of a country that had cast off slavery were represented as outlaws. Indignation at such conventions was expressed in the literary domain by the British poet Samuel Whitchurch in his 1804 epic celebrating the Haitian Revolution, *Hispaniola, A Poem*. The poet footnotes his use of the term “brigands” as a “retort” to the French who had used “this disgraceful epithet not only for the brave blacks, but almost every people who were bold enough to resist their authority” (Whitchurch 60).

FERRAND, SANTO DOMINGO, AND PIRACY

The facetious question posed by the “injured man of color” of whether trade with “brigands” made American merchants brigands themselves quickly became literal in a way that this anonymous essayist had not intended. At the time of the retreat of Napoleon Bonaparte’s forces, a lone French general, Louis Ferrand, took over the command of the French military post in Santo Domingo, and there conceived, as an anonymous contemporaneous chronicler put it, “the noble project of conserving for France, with his tiny elite of valiant defenders of the national honor, the precious possession [. . .] that had first been conquered by a handful of filibusters” (qtd. in Demorizi *La Era*, 243).

The parallel between Ferrand and the early history of French pirates in establishing the roots of a French settlement on the island was indeed appropriate. Ferrand lost no time issuing letters of marque to French privateers working with former Creoles of Saint-Domingue in other Caribbean ports, but above all in Santiago de Cuba (then called “St. Jago”). Santiago was for a time in the Dominican *Era de Francia* so dominated by the former French colonists that one could view the south-eastern part of Cuba as also having a French “era.” Synergized with the embittered losers of the Haitian Revolution, Ferrand launched a legal decree from a hastily fashioned French tribunal, making it illegal for neutral traders — traders from countries not involved in any military conflict between Haiti and other parties, notably France — to engage in military commerce from any port on the island of Hispaniola other than French-controlled Santo Domingo. Authorized by letters of marque from Ferrand and from his allies in the governments of other French Caribbean colonies, such as Guadeloupe, the privateers were to take the confiscated “neutral” trading ships to St. Jago or other ports for processing, involving a not-so-subtle separation of the cargoes from the ships. Ferrand’s privateers avoided taking the ships to Dominguan ports, where the perils of Haitian response were all too real, replacing the military battlefield with a pan-Caribbean battleship game of maritime winners and losers.

It was a high-stakes legal maneuver: Ferrand was trying to reverse the neutrality that allowed Americans to trade with Haiti, recasting them as auxiliaries to the brigands in an on-going revolt of slaves against a sovereign power: France. Without any obvious legal basis for doing so, Ferrand decreed that the port under his control, in the formerly Spanish capital, was the only legal port for international trade on the entire island, east or west:

The port of St. Domingo is the only one open in the island of Hispaniola to domestic and foreign commerce. In consequence, all vessels riding at anchor in the bays, harbors, landings or in any place near the coast occupied by the rebels [. . .] shall be detained by the ships of state or by the privateers having our letters of marque [. . .]. (Ferrand)

The arrete, composed March 1, 1804, but not published until September 5 in the Virginia *Enquirer* in the U.S., was a shocking reduction of the new citizens of Haiti to the status of “rebels,” on an implicitly French-controlled “island of Hispaniola.” This homespun French tribunal decree and its implicit reversal of the course of the Haitian Revolution, including the resounding defeat of the French colonial system there, undoubtedly would have passed as nothing more than fantasy had not U.S. merchants already begun reporting the seizure of their ships through precisely the mechanisms outlined in Ferrand’s arrete.

One of the first captains to lose his ship through confiscation by French privateers off the Haitian coast returned with distressing tidings to Philadelphia in April 1804, as related in this report:

The accounts brought from St. Jago-de-Cuba, by the schooner Mars, which arrived at New York on Monday, are of a most alarming nature. About fifteen French privateers are constantly bringing every American vessel in, bound to St. Domingo, which is suspected of trading with the Haytians; and about 40 of these vessels were at St. Jago when the Mars sailed. As soon as these prizes arrive, the French agents seal the hatches; but this never prevents the cargo from being taken out, and sold, without waiting for the vessels to be condemned. (“Domestic Intelligence”)

Ferrand’s innovative practical redefinition of Haiti’s “state of freedom” as a state of brigandage constituted a defining feature of the *Era de Francia* (“the French era”) in what is now the Dominican Republic — without it, it might well have been the beginning of an island-wide *Era de Haïti*. This hybrid historical moment was first discussed in modern scholarship in Emilio Rodríguez Demorizi’s 1955 historical anthology *La Era de Francia*. Demorizi, writing during the Trujillo era, contextualized the Ferrand era through the lens of a rather shocking nostalgia for the complete separation of the Dominican Republic (identified with “Spain”) from Haiti (identified with “darkest Africa”). For Demorizi, the colonial texts he was reprinting in his anthology remained as valid for the mid-20th century and the future as they had been for the early 19th century, because they signaled

the necessity of maintaining the complete separation of the two sections of the island, even under the flag of France, to prevent the disorders and the grave ills of the western part from infiltrating the Spanish part; with the frontier as a Gibraltar separating Spain from darkest Africa. (Demorizi *La Era*, 15)

Contrary to this perception, there is abundant evidence that Ferrand meant to remake the entire island of Hispaniola into a single French colonial power with different racialized classes integrated throughout the island, but in the strictest hierarchy; it was a schema of vertical racially-segregated layers, as in the U.S.,

rather than distinct horizontal national territories. As Ferrand proclaimed shortly before his 1808 suicide (in the face of a Puerto Rican invasion of former Spanish Creoles from Hispaniola), “Spaniards of the east part of St. Domingo, you are all become Frenchmen; or rather, French and Spaniards, we form together but one band of brothers” (qtd. in Guillermin 37). Frank Moya Pons, Eugenio Matibag, Alain Yacou, and Emilio Cordero Michel have continued to unveil the paradigmatically complex Caribbean history of the *Era de Francia*.

FRENCHNESS, HAITIANNES, AND THE “SPANISH PART”

Between 1795 and 1804 there had been enough of a revolving door of governmental affiliations in the eastern part of Hispaniola to make the region’s legal and political relationship to Haiti undeniably oblique. Santo Domingo had been nominally under French control since the treaty of Basle in 1795. This French annexation theoretically had opened the window to “Spanish” slaves seeking the emancipation that had been granted to slaves in French Saint-Domingue in 1793 under Sonthonax, and to all slaves in all French colonies by order of the metropole’s revolutionary government in 1794. In practical terms, it is not completely clear how the “Frenchness” of Santo Domingo had played out in terms of the totality of the (former) slaves of the *ci-devant* Spanish region. According to the Santo Domingo commissioner Antonio Chanlatte in a June 1800 text, relatively few “Spanish” slaves had actively sought emancipation on the other side of the border, although he admitted that “Frenchmen of all colors” had been integrated into life on the Spanish side, where they “nourished turbulence” and unfolded their socially “disorganizing talents” (cited in Demorizi *La Era*, 221). The political leadership of Santo Domingo also remained largely drawn from the “Spanish” population of the region, further restraining the global French/Haitian revolutionary impact of the treaty of Basle.

In the spring of 1801, Toussaint Louverture, the Governor-General of Saint-Domingue, took military control of Spanish Santo Domingo and placed it under the governance of his deputies. For Governor Joaquin Garcia, in a lengthy and outraged report from May 1801, this conquest by the blacks of the already officially French “Spanish” part was a sign of Toussaint’s unlimited ambition for independence, not only from France, but also from all European metropolises present on the island of Hispaniola. Garcia assessed this motivation from Toussaint’s inability to tolerate the presence of French commissioners Sonthonax, Hédouville, and Roume in Saint-Domingue, as well as his commercial accords with the Americans and the British (cited in Demorizi *Cession*, 598–599). Yet at the same time that Toussaint had extended his sphere of direct influence on the island, he elaborated a new constitution in the name of the entire island as a colony of France, which would influence later legal interpretations of the sphere of French colonial territory on the island.

After Toussaint's 1801 conquest of Santo Domingo, Napoleon's army invaded the island in the early spring of 1802 to reestablish its full colonial authority, first landing in, and reclaiming, the eastern side. Thus the Spanish or Spanish/Haitian side was again briefly in the hands of the white French, even if during this 1802–1803 period there was almost no imposition of new French colonial government structures. In this period, Toussaint was deported to France and died in captivity in the spring of 1803 in the Fort de Joux in the Jura. Dessalines, who took over Toussaint's leadership, succeeded in definitively defeating the French army in November of 1803. In this transition to the independence of Haiti, the French general who was in charge of Santo Domingo, Kerverseau, evacuated his post, in keeping with the retreat of the French. Ferrand then emerged as the unexpected figurehead of a continuing French colonial presence in Santo Domingo and on the island of Hispaniola more generally.

At the time of the extraordinary French defeat, whether Ferrand, Dessalines, and their compatriots understood the terrain of "Hayti" to be legally or perhaps virtually island-wide is not clear. The names used for the eastern and western sides of the island amounted simply to French and Spanish translations of the name ("Saint-Domingue" and "Santo Domingo," respectively) that in the Anglophone domain was rendered "St. Domingo." The fact that "French" and "Spanish" could refer to linguistic rather than colonial identities, across the spectrum of racial identities, made references to places on Hispaniola highly context-dependent. Certainly in the Haitian Independence era there is no shortage of documents that identify "Hispaniola" with the terrain of "Hayti" on a routine basis. The formal treaties of the French capitulation and evacuation still await full analysis in Jean-Pierre Le Glaunec's forthcoming *De ce jour, de ce lieu: La bataille de Vertières ou l'histoire d'Haïti* to clarify the legal basis of the French presence in Santo Domingo. But within the correspondence attached to Dessalines's own military *Journal of the Northern Campaign*, there is a very startling letter dated November 20, 1803, from French Brigadier General J. Boyé on behalf of General Rochambeau to Dessalines, which would seem to formally exclude the evacuation of the French troops in the Spanish part.

The letter seems to preserve Santo Domingo as a space of limited remaining French influence:

General,

I have just received orders from General Rochambeau relative to the explanations you requested about the formerly Spanish part of the island, and I transmit his responses to you as follows.

This territory can no longer be considered Spanish, because it was ceded to France under the treaty of Basle, and no subsequent treaty had abrogated the concession made by the Spanish king.

It follows from this incontestable point that the French who occupy that part of the island cannot be considered as Spanish troops, nor as auxiliaries of some foreign power, because there, everything is French: territory, troops, and inhabitants.

The troops belonging directly to the French army in the formerly Spanish part cannot be included in the surrender treaty we signed yesterday, because that was strictly limited to the evacuation of the Cape.

The General in Chief has given no orders for the evacuation of this part.

These are, General, the answers my general charged me to transmit to you.

It is my honor to salute you,

Signed,

Boyé

Certified as an authentic copy,

The General in Chief, DESSALINES (Dessalines, *Copies* 73)

It is important to note that additional surrenders and evacuations of other French posts, including Port-au-Prince, were in the process of being negotiated in late 1803, so this can certainly not be read as a limitation of the French loss to the northern city of the Cap Français. But it is a confounding limitation of the evacuation of the French. Frustratingly, the next letter, from the 22nd of November, makes no mention of Dessalines's direct response to the stunning content of the previous letter. Instead, Rochambeau's emissary Boyé switches to what would appear to be a tone of flattery, bribery, and ruse, glossing over the non-evacuation of French Santo Domingo with the offer of fine horses. This would truly have been a case of a Trojan horse if Dessalines were actually distracted by it:

General,

I communicated to General Rochambeau the letter you had addressed to me concerning a horse you wanted; I am returning to you his handwritten note in the margin of your own letter. General Rochambeau would like to know which of your officers attacked first at Vertière; he would like to give him a handsome horse as well, because he loves brave people.

You will receive this evening the prisoners you requested.

It is my honor to salute you,

Signed,

Boyé

Certified as an authentic copy,

The General in Chief, DESSALINES

Why would Dessalines have accepted the agreement to leave the French unmolested in the Spanish part? How could the notion of a part of the island that was all French — territory, troops, and inhabitants — have been palatable to Dessalines given his rhetorical ferocity with regards to the French in the Independence documents? In what diplomatic context did the non-Spanish, specifically French, identity of the formerly Spanish part constitute a haven rather than a vulnerability at the time of the French surrender? One might almost surmise that the documents were fake, but there is much to support their authenticity. They were published in Haiti (although undated) by the printer for the Haitian government. In addition to the printed copy in the British National Archives, there is a handwritten copy in the *Notes historiques de Moreau de St. Méry* at the Archives d'outre-mer in Aix-en-Provence in France.² Did Dessalines fear rocking the boat over the issue of Santo Domingo precisely when the departure of the French from their colony was poised to actually occur? One likely (but incomplete) explanation is that Dessalines felt that the French troops in Santo Domingo were such a negligible power that he could easily contend with them later. He knew that many of the “French” in Santo Domingo were blacks, not white colonists, and that there was a population burdened by enslavement; he may have assumed a certain inevitable domino effect of emancipationist ideology.

In the first months of 1804, at the same time that Ferrand was engaged in this attempt to rewrite the history of the Haitian Revolution through legal discourse and piratical action, he also aimed to lure former colonists back to the island with the promise of protection and wealth — carefully laid out in elegant bilingual posters — and to reestablish an inflexible bulwark of slavery. As Graham Nessler demonstrates through research of notarial records from Santo Domingo, the Ferrand regime actively and attentively engaged in the legal re-enslavement of previously emancipated blacks. The “Ferrand regime’s presumption of slavery” was based, Nessler shows, on the “twin pillars of American slave societies: the subjugation (in this case *resubjugation*) of men, women, and children to a state of perpetual servitude, and an ideology of racist stigmatisation and dehumanisation” (92). Although there is an interesting slipperiness to the parameters Ferrand laid out in his legal decrees — he clearly was aware of the possibility of a legal misstep — his terms only became more draconian with time. On February 5, 1805, he ratcheted up the consequences of trading with the rebels to nothing less than death: “Article 1. All individuals whomsoever found on board of any vessel, allies or neutrals, coming out of any ports occupied by the rebels, shall suffer death” (qtd. in *Recueil* 39).

DESSALINES AND THE PROVOCATION OF FERRAND

From the opening weeks of the Haitian Independence, Dessalines was infuriated by Ferrand; he knew from his own contacts and from his commercial networks with the U.S. what was happening off Haiti's shores. All Dessalines's references in his independence proclamations to what might appear to be "the French" in the abstract may be informed by the frustrating game of wits being played across the "Spanish" border with consequences in Haiti's own waters. In the May 8 "Proclamation of Jean-Jacques Dessalines, Governor General, to the Inhabitants of the Spanish Part," Dessalines inveighed, "The crazed Ferrand instilled in you the poisons of lies and slander. Writings originating in despair and weakness had also circulated; and some among you, seduced by perfidious insinuations, solicited the friendship and protection of the French" (*Recueil* 28). Confident in his imminent victory, he also seemed to suggest that he had little fear of the "vain" and "impotent" Ferrand, asking whether the Spaniards expected that all their religious devotions could save them from Dessalines's anger, "this officer who is as vain as he is impotent."

Not surprisingly, Dessalines launched a military attack on the Spanish side, with the Haitians easily taking every establishment they confronted until, in late May, the unthinkable occurred: Ferrand sent for reinforcements from passing naval ships, and with them, defeated the Haitian forces. The Haitians kept this legally explosive military defeat to themselves, and it is nearly invisible in the historiography of Haiti.

The real problem was, in fact, not military, but legal. If Ferrand had at the outset been operating virtually unnoticed by the French government, by the late summer of 1804 he had been claimed and supported by the French metropolitan administration — not enough to ever have a credible French presence on the island, but just enough to keep his ragtag outpost alive for several years of the production of legal challenges to the international parties who would attempt neutral commerce with the Haitians.

American merchants' complaints of the unjust seizure of their cargoes by order of Ferrand evolved in some cases into legal "prize cases," or *cas de prises* (court cases based on seized vessels). It was in these legal cases that Haiti would see its independence reduced to the status of a fiction or an anachronism in legal argumentation and opinions. Although it is not yet clear whether there was any direct bearing of these legal arguments on Haiti's actual independence, it is difficult to imagine that they did not indirectly circumscribe the ability of Haiti to assume a place in the international order economically, politically, and psychologically.

The first prize case based on Ferrand's interdiction of neutral trade with Haiti was heard in the British Court of Vice-Admiralty in Halifax, concerning the ship the "Happy Couple," which had been seized on February 22 as it

left St. Marc in Haiti. Arguments in this April 1805 case were an opening salvo in debates on what one might call the phenomenology of postcolonial freedom. “A large portion of that island has thrown off the yoke of France” (qtd. in Stewart 67), the King’s advocate admitted, as was obvious from the French surrender. And yet, on further consideration it was not entirely clear that a colonial power *could* suffer military defeat rather than insurrection at the hands of slaves; the military conflict between the French and the Haitians allowed for neutral commerce by non-belligerents, whereas a local uprising was not in the same category. Military victory was thus reframed by lawyers as an act of insurrection by “revolting negroes”: “Might does not constitute right, [. . .] and if France has a just title to the dominion of St. Domingo, no acts done by revolting negroes can divest it” (qtd. in Stewart 73). Ultimately, in the absence of any definitive proof that Saint-Domingue had “acquired another character” (qtd. in Stewart 75) — such as another country’s formal recognition of Haiti’s independence — this line of thought yielded the insight that if there were still colonists on the territory claiming their rights (like Ferrand) then Haiti remained “a French colony.”

The 1808 U.S. Supreme Court appeal of a South Carolina circuit court case, *Rose vs. Himely*, showed justices wrestling with the question of before and after in the Haitian Revolution. They noted that Ferrand’s texts were not in themselves laws, but “declarations of what the law was before” (*United States Supreme Court Reports* 616); and yet vessels were as likely to be seized for transgressing these “proclamations” as if they “had violated a blockade” (616). Likewise, there was a before and after for acknowledgments of freedom: “It is said, indeed, that they were free. But the same power which had declared them to be free, had since declared them to be slaves” (615). This left two possibilities: “that they were free rebels, or revolted slaves” (615): the status of free nationals was not on the table. The power of the French to either create the freedom of the Haitians by letting it be said that they were free, or to take it away by saying instead that they were slaves, left the foundation of the victory of the Haitians as a kind of discursive field in which Haitian voices no longer registered. Such arguments were just a backdrop to the actual legal substance of resolving the prize cases, but it was clear in “*Rose v. Himely*” that the Haitians had been demoted from legitimate enemies of France to rebels. And if they were truly rebel slaves, “trading with the brigands” (608) had become an act of unwonted interference in another country’s domestic conflict.

These seizure or “prize” legal cases did not have direct diplomatic impact concerning recognition or non-recognition of Haiti as a nation; the Haitian nation was in fact not recognized by the U.S. until the Civil War era under President Lincoln in 1862. But that absence of recognition arguably took the more threatening form in these legal arguments of a retraction of Haiti’s putative national existence.

Not only Dessalines's poetics and politics of violence, but Haiti's developmental trajectory quite generally, must be considered in light of this virtually unknown yet successful strategic maneuvering of France to reassert itself as Hispaniola's sovereign ruler — a sovereignty exerted with the single goal of marginalizing, not governing, Haiti. Former slaves, as political non-entities, undecipherable with regard to the law of nations, were vulnerable to an almost entirely discursive argument against their emancipated sovereignty. Revolutions were reimagined as rebellions. This trend continued in U.S. prize cases based on Ferrand's seizures of commercial vessels even years after Ferrand's suicide.

The fact that U.S. courts continued to assert French colonial rule in Santo Domingo and Haiti even after the demise of the final remaining French outpost on the island indicates the depth of the association of Haiti's state of freedom with brigandage — even though Ferrand fought against Haiti with that high seas brigandage, piracy. Is it any surprise that the notion of brigandage would turn up as a prominent feature of the discourse of the U.S. occupation of Haiti between 1915 and 1934? In *Hearings Before A Select Committee on Haiti and Santo Domingo* in 1920, the anticolonial militants known as the *Cacos* (“brigands” in Spanish), were described as “bandits pure and simple, owing no allegiance to the government or any political faction, but organized under petty chiefs for [the] sole purpose of stirring up strife against the government . . . The suppression of this brigandage and these activities is absolutely essential to peace and security in Haiti” (398). Haiti survived the *Era de Francia* in the Dominican Republic, but this history illuminates Haiti's willingness to pay the massive indemnity payment to France that destabilized its economy from 1825 on. The spectral presence of this original challenge to the new postcolonial state serves as a reminder of the stakes of expelling an identity of brigandage from a tenuous sovereignty, sometimes at the cost of the constitutional rights of the citizenry of ghettos.

Notes

1. The British National Archives have three military texts dating from the period of the French capitulation and evacuation in November and December of 1803 in the CO 117–111 series: the *Journal of the Northern Campaign*, the *Excerpt of the Journal Kept by the General in Chief of the Indigenous Army During the Expedition Against Port-au-Prince*, and *Copies of Letters Written to the General in Chief of the Indigenous Army*. These texts were originally printed in Haiti. They have two separate systems of pagination: one provided by the National Archives, and one that was original to the texts. The National Archives pagination is misleading in that it leads one to associate the *Copies of Letters* with the *Excerpt of the Journal*, whereas the correspondence is actually a kind of appendix to the *Journal of the Northern Campaign*. Therefore, I refer to the non-archival pagination system here. These texts cover a complex chronology, and the date of their actual publication — whether in 1803 or the early spring of 1804 — is not decisively established. I am indebted to Duke doctoral student Julia Gaffield for sharing her photos of these texts with me, and our collaborative insights on the pagination system were important to elucidating its structure.

2. The handwritten copy of the *Journal de la campagne du nord* in the Colonial archives in Aix (AOM F3, 141, 497–524) has a few intriguing differences from the printed copy, but it is mostly identical. The letters analyzed in this article are on pages 515–517.

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