

“She persisted in her revolt”: Between Slavery and Freedom in Saint-Domingue

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This article argues that women of colour were particularly well placed to take advantage of the porous boundary between slavery and freedom, flexible categories that operated on a continuum. Through a fine-grained analysis of the legal case of Marie Victoire Morisseau, one of the few appeals from Saint-Domingue that reached the Conseil du roi in Versailles, this article inserts women of colour into debates over who had the authority to arbitrate the boundary between slavery and freedom. It concludes that slavery and freedom were gendered categories that were less absolute for women of colour than for men. They were more manipulable, more permeable and possible to traverse, and less about legal absolutes and documents that provided “proof” and more about social experience and lived reality.

Le présent article soutient que les femmes de couleur étaient particulièrement bien placées pour tirer parti de la frontière poreuse entre l’esclavage et la liberté, des catégories souples qui s’inscrivaient dans un continuum. En passant au peigne fin l’affaire Marie Victoire Morisseau – l’un des rares appels de Saint-Domingue à être parvenus au Conseil du roi à Versailles –, cet article fait intervenir le facteur des femmes de couleur dans le débat sur l’autorité apte à définir la frontière entre esclavage et liberté. Il conclut qu’il s’agissait de catégories genrées, moins absolu pour les femmes de couleur que pour les hommes. Ces catégories étaient sujettes à interprétation, perméables et franchissables, l’expérience sociale et la réalité vécue comptant davantage que le légalisme et les « preuves » à l’appui.

IN EIGHTEENTH-CENTURY SAINT-DOMINGUE, colonists of all colours had long acknowledged freedom and slavery as flexible categories, constructed socially as well as legally. In the context of daily life, having your neighbors recognize and treat you as free was far more important than having a piece of paper from an unknown official that stated your freedom. By the 1770s, however,

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laws regulating the boundary between slavery and freedom were undergoing a shift in Saint-Domingue, and freedom was increasingly approached as a strictly legal category initiated only by owners of enslaved people and strictly controlled by royal officials.¹ An exactly defined body of documentary proof became the standard of evidence for demonstrating freedom. Free people of colour increasingly needed what we might call a “freedom paper trail” to safeguard their status.² Yet exactly what constituted documentary evidence was far from clear. Increasingly, proof had to be produced by the mechanisms of the growing French bureaucracy. Baptism records, notary records, or emancipation papers ratified by colonial officials were the gold standard, yet to contemporaries even these seemingly inviolable documents sometimes seemed corruptible. Thus, even in the midst of crown efforts to strictly delineate slavery from freedom and to control the boundary between them, the categories remained contested, flexible, and malleable.

Yet administrative efforts to define slavery strictly as a legal category, dependent on documentary proof, did have their effects, and it became more difficult for free people of colour to claim freedom socially, in ways based on community recognition and relationships. The movement towards reliance on documentary evidence had gendered implications, as women of colour were more likely than men to live in close proximity to Whites and tended to be extremely well-integrated into their communities both economically and socially. They thus had more extensive opportunities to construct their freedom socially, in ways outside the strict letter of the law. When standards of proof began changing, therefore, it put women at a disadvantage.

The case of Marie-Victoire Morisseau, a woman of colour who claimed freedom, demonstrates the complicated and contested nature of this shift from freedom as a social category to a strictly legal one.³ It also suggests the mercurial nature of what constituted “proof”; even sometimes following the letter of the law and producing the required documents was not enough to safeguard liberty. This fascinating, tricky case has already drawn the interest of two scholars; Sue Peabody uses it to demonstrate the gendered nature of freedom, while Malick Ghachem argues that it reveals the complexity of competing jurisdictions in

- 1 A number of historians point to this shift. Trevor Burnard and John Garrigus, *The Plantation Machine: Atlantic Capitalism in French Saint-Domingue and British Jamaica* (Philadelphia: University of Pennsylvania Press, 2016), pp. 163; 184-190; John Garrigus, *Before Haiti: Race and Citizenship in French Saint-Domingue* (New York: Palgrave, 2006), esp. chaps. 4-5; Stewart King, *Blue Coat or Powdered Wig: Free People of Color in Pre-Revolutionary Saint-Domingue* (Athens: University of Georgia Press, 2001).
- 2 Rebecca Scott and Jean Hébrard, *Freedom Papers: An Atlantic Odyssey in the Age of Emancipation* (Cambridge, MA: Harvard University Press, 2014).
- 3 Archives nationales d’outre mer (hereafter ANOM), *Répertoire des arrêts, édits, déclarations, et ordonnances rendus pendant l’année 1775*, 46, FM A15, “Arrest du 22 Décembre qui reçoit le S de Morisseau d’Estes, habitant de St Domingue, appelant d’une ordonnance rendue par les administrateurs de cette colonie relativement à la désertion de plusieurs esclaves de l’habitation de feu Philippe Morisseau [sic] son frère, déclare ladite Ordonnance nulle, et autorise l’exécution de celle de M de Nolivos et de Bougars du 13 février 1771” (hereafter cited as Arrêt, December 22, 1775). Excerpts of this document also appear in Médéric-Louis-Élie Moreau de Saint-Méry, *Loix et constitutions des colonies françaises de l’Amérique sous le Vent*, 5 vols. (Paris: Moreau de Saint-Méry, 1784-1790), vol. 5, pp. 653-655. All quotations come from the archival version, although sometimes I note differences from de Saint-Méry’s text.

Saint-Domingue.⁴ I build on these analyses to reveal how even within the sharp constraints of the state, the particular social position of free women of colour meant that they could occasionally manipulate these limitations. However, sometimes following emerging strictures of the law and providing documentary evidence of freedom was not enough to safeguard it.

Free Women of Colour in Saint-Domingue

Free women of colour were successfully socially and economically integrated into Dominguan society.⁵ Throughout the eighteenth century many residents—up to 20% in some parishes—married across the colour line.⁶ Some White fathers transferred assets to mixed-race children, and the courts upheld their right to do so.⁷ Free women of colour also played important economic roles. *Ménagères*, or household managers, often commanded large salaries.⁸ Furthermore, free women of colour demonstrated knowledge of the legal system and used it to protect themselves and their kin, including their free status; Dominique Rogers shows that free women of colour made up 62% of free coloured notarial clients in Port-au-Prince and Cap Français.⁹

Free women of colour were thus a visible, economically significant, and legally active group, especially in urban areas. They comprised between 50 and 70% of the enslaved who were legally emancipated through formal channels.¹⁰

- 4 Peabody and Ghachem both rely on the published account of this case that appears in Moreau de Saint-Méry's *Loix et constitutions*. Sue Peabody, "Nègresse, Mulâtresse, Citoyenne: Gender and Emancipation in the French Caribbean, 1650-1848," in Pamela Scully and Diana Paton, eds., *Gender and Slave Emancipation in the Atlantic World* (Durham, NC: Duke University Press, 2005), pp. 56-78, 62-63; Malick Ghachem, *The Old Regime and the Haitian Revolution* (New York: Cambridge University Press, 2012), pp. 105-112. A recent dissertation puts the case in the context of runaway practices and cites the archival document on which de Saint-Méry's account was based but does not discuss it in depth. Crystal Eddins, "African Diaspora Collective Action: Rituals, Runaways, and the Haitian Revolution" (PhD dissertation, Michigan State University, 2017), 222. "Arrêt du Conseil d'Etat," 22 December 1775, in Moreau de Saint-Méry, *Loix et constitutions*, vol. 5, pp. 653-655.
- 5 Dominique Rogers, "On the Road to Citizenship: The Complex Route to Integration of the Free People of Color in the Two Capitals of Saint-Domingue," in David Geggus and Norman Fiering, eds., *The World of the Haitian Revolution* (Bloomington: Indiana University Press, 2009), pp. 65-78; and Rogers, "Les libres de couleur dans les capitales de Saint-Domingue: fortune, mentalités et intégration à la fin de l'Ancien Régime" (PhD dissertation, Université Michel de Montaigne, Bordeaux III, 1999).
- 6 Jacques Houdaille, "Trois paroisses de Saint-Domingue au XVIII^e siècle : étude démographique," *Population*, vol. 18 (1963), pp. 93-110, 100.
- 7 Rogers, "On the Road to Citizenship," p. 71; Garrigus, *Before Haiti*, p. 185; Moreau de Saint-Méry, *Loix et constitutions*, vol. 5, p. 285; Robert Taber, "'The Issue of Their Union': Family, Law, and Politics in Western Saint-Domingue, 1777-1789" (PhD dissertation, University of Florida, 2015), chap. 4; Matthew Gerber, "Bastardy, Race, and Law in the Eighteenth-Century French Atlantic: The Evidence of Litigation," *French Historical Studies*, vol. 36, no. 4 (2013), pp. 571-600.
- 8 Dominique Rogers and Stewart King, "Housekeepers, Merchants, Rentières: Free Women of Color in the Port Cities of Colonial Saint-Domingue, 1750-1790," in Douglas Catterall and Jodi Campbell, eds., *Women in Port: Gendering Communities, Economies, and Social Networks in Atlantic Port Cities, 1500-1800* (Boston: Brill, 2012), pp. 357-397.
- 9 Rogers, "Les libres de couleur," pp. 105, 111. Ghachem, *The Old Regime and the French Revolution*, p. 105; Garrigus, *Before Haiti*, pp. 88-95; Rogers, "On the Road to Citizenship."
- 10 Arlette Gautier, *Les Soeurs de Solitude : la condition féminine dans l'esclavage aux Antilles du XVII^e au XIX^e siècles* (Paris : Éditions Caribéennes, 2010), pp. 153-157; Rogers, "Les Libres de couleur," p. 71; Garrigus, *Before Haiti*, p. 60.

Yet their very existence evoked sexual vicissitude to the White imaginary.¹¹ The ongoing power of this stereotype is demonstrated by the fact that historians continue to interpret women of colour's demographic preponderance among legally emancipated enslaved as evidence of their sexual service to White men.¹² Yet their majority has much broader implications for understanding the social position of women of colour in Dominguan society. While few historians have examined the emancipation practices of White women, recent scholarship tentatively suggests that White women, like White men, tended to emancipate women and children of colour.¹³ This indicates that some Whites valued enslaved women, such as highly-paid *ménagères*, for skills and services other than sexual labour.

Assumptions about gender roles and gendered labour meant that enslaved women of colour were, in general, more likely than men to live in close proximity to Whites as housekeepers or servants. This afforded them opportunities to build relationships with both White women and White men that could result in freedom of various kinds for them and their children. While such positions certainly came with myriad dangers, especially extreme vulnerability to abuse, they sometimes also held some advantages, including possible financial and material rewards.¹⁴ Both these concrete benefits and the nature of their labour itself subtly blurred the line between slavery and freedom. The enslaved who performed domestic duties would likely often have been better dressed and better nourished than their agrarian counterparts, making their physical appearance more akin to free people of colour or Whites. As with free people of colour, they were concentrated in urban areas. The responsibilities they carried out, including buying and selling, brought them onto streets where they interacted with other enslaved, free people of colour, and Whites of different social stations. Of course, the difference between an enslaved *ménagère* and a free one, for instance, was substantial. The latter often commanded a high salary and had the same privileges of making contracts that were open to Whites, while the capital accrued by the former's skill benefitted only her owner.¹⁵ Yet acknowledging the very potential to blur this boundary both positions women of colour as active agents in the controversy over who had the

11 Yvonne Fabella, "Redeeming the 'Character of the Creoles': Whiteness, Gender and Creolization in Pre-Revolutionary Saint-Domingue," *Journal of Historical Sociology*, vol. 23, no. 1 (2010), pp. 40-72; Garrigus, *Before Haiti*, pp. 154-156.

12 For example, see Carolyn Fick, *The Making of Haiti: The Saint Domingue Revolution from Below* (Knoxville: University of Tennessee Press, 1990), p. 18; Gautier, *Les Soeurs de Solitude*, pp. 153-157; and Paul Cheney, *Cul De Sac: Capitalism, Patrimony, and Slavery in French Saint-Domingue* (Chicago: University of Chicago Press, 2017), p. 102. Rogers makes the opposite argument in "Les Libres de couleur."

13 Jennifer L. Palmer, *Intimate Bonds: Family and Slavery in the French Atlantic* (Philadelphia: University of Pennsylvania Press, 2016), pp. 101-107.

14 On the dangers, see, among others, Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*, 2nd ed. (New York: Routledge, 2000); Elsa Barkley Brown, "'What has Happened Here': The Politics of Difference in Women's History and Feminist Politics," *Feminist Studies*, vol. 18, no. 2 (1992), pp. 295-312; Annette Gordon-Reed, *The Hemingses of Monticello: An American Family*, 1st ed. (New York: W.W. Norton & Co., 2008); Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford University Press, 1997); and Marisa Fuentes, *Dispossessed Lives: Enslaved Women, Violence, and the Archive* (Philadelphia: University of Pennsylvania Press, 2016).

15 Rogers, "On the Road to Citizenship."

right to arbitrate freedom and inserts them into a process of negotiation generally interpreted only as the province of privileged White men.

Slavery and freedom, therefore, were less absolute categories for women of colour than for men. They were more manipulable, more permeable and possible to traverse, and less about legal absolutes and documents that provided “proof” and more about social experience and lived reality. This opened up opportunities to claim freedom, but as legal requirements emphasizing documentary evidence tightened it also made them more vulnerable. The case of Marie Victoire is thus particularly important to consider in framing the primary role of gender in shaping how the boundaries between slavery and freedom were drawn and contested.

The Three Maries

Marie Victoire Morisseau was born on May 5, 1745, in Petite Rivière de l’Artibonite, a small town situated between the banks of the brook Petite Rivière and the larger Artibonite River. It was a much smaller enclave than the urban centres of Cap Français and Port-au-Prince, where scholars have well documented the prominence of free people of colour.¹⁶ Even by the last quarter of the century it had only two streets that traversed the length of the town and three its breadth, all at right angles to each other.¹⁷ It comprised barely 40 houses constructed of masonry and covered in tiles; deforestation was already a problem, making timber difficult to come by. It had a reputation as a centre for vendors and artisans and was a significant entrepôt for foodstuffs grown in the region. The town also had opportunities for the enslaved to engage in commercial and social life; Moreau de Saint-Méry characterized it as “favorable aussi aux petits échanges qui font tout le bien-être des nègres.” The market, located near the church and dominated by the enslaved, proved so lively that from April 30, 1764, the police judge had to maintain order so the revelry “ne pût pas détruire la décence et le recueillement nécessaires au service divin.” As in the rest of the colony, the enslaved outnumbered Whites by a large proportion and the number of free people of colour grew steadily, mushrooming from a reputed 85 individuals in 1730 to 850 by the 1780s.¹⁸

Marie Victoire was born in this small town on May 5, 1745, and baptized three years later on August 13, 1748.¹⁹ Both her older brother and her younger brother received the holy sacrament at the same time: Nicolas was born February 18, 1743, and Jerome was born June 11, 1747.²⁰ All three were the “natural” children

16 King and Rogers focus on Cap Français and Port-au-Prince, respectively the commercial and administrative capitals of Saint-Domingue. Garrigus and Taber concentrate on smaller and more isolated locales. King, *Blue Coat or Powdered Wig*; Rogers, “Les Libres de couleur”; Garrigus, *Before Haiti*; Taber, “On the Issue of Their Union.”

17 Médéric-Louis-Élie Moreau de Saint-Méry, *La Description topographique, physique, civile, politique et historique de la partie française de l’isle Saint-Domingue*, 3rd ed., 3 vols. (Saint-Denis : Société française d’histoire d’outre-mer, 2004), vol. 2, p. 854.

18 De Saint-Méry numbered the population in 1730 as 346 Whites, 85 “affranchis,” and 4,758 slaves; in 1739, 422 Whites, 33 affranchis, and 7,076 slaves; and around the time of de Saint-Méry’s writing in the 1780s, 950 Whites, 850 affranchis, and 23,184 slaves. Moreau de Saint-Méry, *La Description*, vol. 2, p. 855.

19 ANOM, État civil, Petite Rivière de l’Artibonite, “Marie Victoire Mulâtresse,” August 13, 1748. Repeated references to baptism and notary records from ANOM will refer to the name of the document alone.

20 ANOM, État civil, Petite Rivière de l’Artibonite, “Nicolas Mulâtre” and “Jerome Mulâtre,” August 13, 1748.

of François Morisseau, a White planter, and “Marie Nègresse se disant libre demeurant chez le Sr François Morisseau.”²¹ That they were labeled as “natural” indicates their illegitimacy; the word “illegitimate” was used rarely in colonial records, in contrast to those in France. All three children were classified by race as “mulâtres” or “mulâtresses.”

That this trio of baptism records was both typical and surprising begins to suggest the complexity of family structures and relationships and their connection to race, slavery, and freedom in colonial Saint-Domingue.²² While it was common for White men to father children with women of colour, baptizing, much less acknowledging, these children was by no means obligatory. That François Morisseau did so perhaps attests to de Saint-Méry’s assertion of “la force qu’avait acquis l’opinion que le Blanc, père d’un enfant de couleur, devait chercher à lui procureur la liberté.”²³ It also suggests that he felt some sort of bond to the children, at least a bond of responsibility.

Yet several factors indicate that François intended to interact with these children over a long period of time. All three children, born over a span of four years, had the same mother, Marie, “se disant libre,” who lived with him. This was a fairly common type of arrangement, an exchange of sexual and housekeeping services for protection, material benefits, and, perhaps, the promise—or semblance—of freedom. Both contemporaries and historians have pointed to this as the foundation of Saint-Domingue’s high emancipation rate and exceptionally large population of free people of colour. That their cohabitation was actually recorded in the parish register suggests that their sexual relationship and her perhaps liminally free status were common knowledge, and that the children made up part of their household. Further, he named his brother Philippe as godfather to Marie Victoire, and his other brother Laurent as godfather to her brothers. One woman, Dame René Rose Rossignol, wife of Sieur Sebastien Lanœ, a tailor, was godmother to them all, weaving them into a network of family and patronage.²⁴

The little that is known about Marie, Marie Victoire’s mother, attests to her familiarity with the fluidity between freedom and enslavement and her determination that she and her children end up on the rights side of the line. She asserted her freedom forcefully—“se disant libre”—children in tow, in the presence of a group of more powerful Whites, including a priest, her sexual partner who either then or previously had been her legal owner, and his brothers, also owners of enslaved people. No one seemed to support her statement, but no one contradicted it either.

This lack of support, particularly the absence of documentary evidence of Marie’s freedom, proved a point of greatest importance in the suit between Marie Victoire and her father years later. The legal ambiguity of her freedom highlights

21 “Marie Victoire Mulâtresse.”

22 For works that emphasize the importance of family connections for understanding race, slavery, and freedom, see Palmer, *Intimate Bonds*; and Taber, “On the Issue of Their Union.”

23 Moreau de Saint-Méry, *La Description*, vol. 1, p. 85.

24 For a similar situation in which a White father provided for mixed-race children of colour, see the case of Aimé-Benjamin Fleuriu in Palmer, *Intimate Bonds*, chap. 5. ANOM, État civil, Petite Rivière de l’Artibonite, “René Roze Rossignol,” February 5, 1755, lists her husband’s trade.

the porousness of the boundary between slavery and freedom, and the vulnerability of free people of colour who did not have official freedom papers. It also, though, demonstrates the flexibility of baptism records as sites where freedom could be constructed.²⁵ Yet for this to happen, the priest performing the rite had to go along, and the parish priest in Petite Rivière proved a remarkable stickler for proof. In the same year Marie Victoire was baptized, 1748, 10 years before the Arrêt of 1758 mandated that priests require documentary proof of liberty for free people of colour rather than relying on their commonly known status, he seemed to require it.²⁶ In another baptism conducted a few months before that of Marie Victoire and her brothers, “Angélique négresse libre,” the mother of newborn “Marie mulâtresse,” presented her freedom papers to the priest, who was remarkably specific in recording their provenance. He acknowledged her a “négresse libre en conséquence de son acte de liberté accordée par Messieurs de Larnase et Maitland en l’acte de 29 aoust 1746.”²⁷ This could have been partly at Angélique’s own urging. She was in a particularly vulnerable position because her child was not acknowledged by her “père blanc inconnu,” so had no powerful White protector. Her presentation of her freedom papers added to a documentary trail that helped make not only her own freedom difficult to contest, but also her daughter’s.

Yet even though the mandates of royal authorities prohibited baptism as a means of emancipation, it was sometimes used that way, and Marie certainly would have been well aware of this possibility.²⁸ The triple baptism of all three of her children simultaneously suggests that she might have been pushing for this official recognition of her children’s civil status for some time. Even owners of the enslaved availed themselves of this opportunity in Petite Rivière, which suggests that, while not technically a legal pathway to freedom, it at any rate opened up colloquial possibilities to live and be recognized as free. For instance, the owner of the mulâtre infant François Modeste freed him through his baptism, and the priest recorded it in the parish register. François Modeste was the “fils naturel” of a worker from Nantes and “Geneviève négresse esclave appartenant a François Capdeville maçon.”²⁹ It was Genevieve’s owner, not her sexual partner, who “par le présent déclare donner la liberté audit enfant mulâtre.” Perhaps to give the emancipation legitimacy, he added, “sous le bon Plaisir de Mr le [gouverneur?] général et Intendant.” This type of emancipation was exactly what colonial officials aimed to eradicate, and what François Morisseau later sought to discredit.

25 Similarly, Carolyn Steedman concluded that her mother told a lie to the registrar that was recorded on her birth certificate, “a discovery about the verisimilitude of documents that worries me a lot as a historian.” Carolyn Steedman, *Landscape for a Good Woman: A Story of Two Lives*, 4th ed. (New Brunswick, NJ: Rutgers University Press, 1994), p. 40.

26 “Arrêt en Règlement du Conseil du Cap, touchant la police des Esclaves,” April 7, 1758, in Moreau de Saint-Méry, *Loix et constitutions*, vol. 4, pp. 225-229, art. XIX.

27 “Marie Mulâtresse.” The record states that Marie was baptized in 1747, although it comes after records from August 13, 1748.

28 Ghachem, *The Old Regime and the Haitian Revolution*, pp. 86-87; “Ordonnance du Roi, concernant l’Affranchissement des Esclaves des Isles; et Ordonnance des Administrateurs en conséquence,” June 15, 1736, in Moreau de Saint-Méry, *Loix et Constitutions*, vol. 3, pp. 453-454. On baptism as a form of manumission in London, see Seymour Drescher, “Manumission in a Society Without Slave Law: Eighteenth-Century England,” *Slavery & Abolition*, vol 3, no. 10 (1989), pp. 85-101.

29 ANOM, État civil, Petite Rivière de l’Artibonite, “François Modeste Mulatre,” August 11, 1748.

Yet at François Modeste's baptism, the priest accepted the patriarchal authority of his legal owner, even as he recorded the owner's own relatively low-status profession, as sufficient to render the child free.

Baptism records, then, were vulnerable to manipulation by both people of colour and by Whites. Individuals approached them in multiple ways to assert freedom, from Angelique's effort to provide legal documentation of her own emancipation, to Capdeville's assertion of François Modeste's liberty and the intendant's favor of it, although he did not seem to provide any evidence. In both cases, the priest wrote down that the infants were free, thus theoretically preventing them, as born free, from ever being confused with the enslaved. François Morisseau's approach was a bit more ambivalent. Although he was clearly present at the baptism of his three children, having signed the parish register, he seemed to leave Marie to her own devices when it came time to record her status. François Modeste's baptism shows that the patriarchal authority of those who owned enslaved people carried great weight in influencing how status was recorded, yet Marie's classification as "se disant libre" suggests that Morisseau made no particular intervention on her behalf. Yet she asserted her freedom in a church to a priest even without documentary proof, an effort echoed by many other women of colour.³⁰ This was an important exertion to make because in Saint-Domingue children followed the status of the mother; as long as Marie was recognized as free, her children would be too. Yet no specific pronouncement about her children's status was made in their baptism records. This is a somewhat unusual omission; parish records generally labeled people of colour as free (e.g., mulâtre libre, négresse libre, etc.). The lack of that single word on Marie Victoire's baptism record proved a key factor in the subsequent lawsuit.

When Marie Victoire was 19 years old, she had a daughter. This relatively late age at first parturition suggests that she was reasonably sheltered, at least in comparison to the enslaved who were victims of habitual sexual abuse.³¹ The birth of her daughter, Marie Rosalie Florimonde, in 1764 highlights Marie Victoire's ambiguous position in her father's household, and also in Petite Rivière. Her child was born out of wedlock; while free women of colour from established free coloured families were attractive marriage partners for many White men, it is less likely that the planter class, to which the Morisseaus belonged, would have wanted to foster ties either with free people of colour or with petits blancs, from which groups a husband for an illegitimate mixed-race daughter would likely come. Her White family, it seems, had no interest in helping her to find a suitable

30 For example, in a baptism on April 18, 1762, the child Anne Marie, daughter of Anne dite Lefeire, "mulâtresse soy disant libre," was baptized. The priest categorized her as "quart. lib." (quarteronne libre). ANOM, État civil, Petite Rivière de l'Artibonite, "Anne Marie quart. lib." The baptism records are full of examples of this practice.

31 This is the first time a child of Marie Victoire's appears in the baptism records. Perhaps more suggestively, there is no mention of any other children in the subsequent legal case. White women in Saint-Domingue tended to marry about four years earlier than their French counterparts. Houdaille, "Trois paroisses de Saint-Domingue," p. 99. Both Hilliard d'Auberteuil and de Saint-Méry condemned greedy matchmaking that resulted in the marriages of young girls and much older men. Michel René Hilliard d'Auberteuil, *Considérations sur l'état présent de la colonie française de Saint-Domingue*, 2 vols. (Paris: Grangé, 1776-1777), vol. 2, pp. 45-46; Moreau de Saint-Méry, *La Description*, vol. 1, p. 31.

marriage partner, nor her White father in dowering her in a manner that would make her a sought-after bride.

Marie Rosalie Florimonde's father was a White notary named Alexandre Florimond Cerfeuillelet.³² While it is unclear if Marie Victoire's liaison with him was voluntary, forced, or a combination of the two, the specificity with which he was identified in the baptism record suggests that he felt enough responsibility towards their daughter that he showed up at her baptism and acknowledged his paternity in person. While extant notary records from Petite Rivière do not exist for a notary named Cerfeuillelet, a notary of this name recorded deeds in Saint-Marc from 1771 to 1778, several years after Marie Rosalie's birth. This transience suggests his own marginal position despite his Whiteness.³³ It makes sense that a newcomer or transient would have sought a sexual relationship with a woman of colour that would endure for several years, although perhaps not permanently. Sexually accessible White women were relatively scarce, and free women of colour could also provide access to resources and entrée into local society.³⁴ If this was his intent, he was successful. Their connection was known and recognized by the White Morisseau family. Marie Victoire's aunt Renée Rosalie Michel, the wife of her father's brother Laurent (who was the godfather to her two brothers), was Marie Rosalie Florimonde's godmother.³⁵

Marie Victoire's family in Petite Rivière thus spanned three generations and intertwined with the White Morisseaus for all three. Her mother, Marie, had a sexual relationship with François Morisseau that lasted for at least five years and produced at least three children, Marie-Victoire and her older and younger brothers. Their White father wove these children further into his own family by naming his brothers as their godparents. This connection between the two branches of the family was renewed at Marie Rosalie Florimonde's baptism, when her mixed-race mother's White aunt became her godmother. These multigenerational connections demonstrate the extent to which White and free people of colour were entwined in Saint-Domingue, and they also illuminate how this interweaving blurred the boundary between slavery and freedom in wholly extralegal but completely effective ways. Although Marie Victoire never went through a formal emancipation process or received manumission papers, at her daughter's baptism she nonetheless was acknowledged as free: "Marie Victoire mulâtresse libre dite Morisseau." Her freedom was based on social relationships and cultural understanding: everyone simply knew about it. Her evident connections with the powerful Morisseau family—she was "dite Morisseau," after all—would have offered her some protection in case officials asked questions ... until, that is, the relationship soured.

32 ANOM, État civil, Petite Rivière de l'Artonite, "Marie Rosalie cart. lib. Fille de Sr Cerfeuillelet n^{re}," March 15, 1765.

33 Fick classifies lawyers as petits blancs, although she does not specifically mention notaries. Fick, *The Making of Haiti*, p. 17

34 Garrigus, *Before Haiti*, chap. 1; King, *Blue Coat or Powdered Wig*, pp. 193-195. Rogers, "Les Libres de couleur." There were about two White men for every White woman in the colony throughout the eighteenth century. Gautier, *Les Soeurs de Solitude*, p. 32.

35 "Marie Rosalie cart. lib. Fille de Sr Cerfeuillelet n^{re}."

The White Morisseaus

The founding member of the Morisseau family migrated to Saint-Domingue soon after it became French. Jean Baptiste Morisseau, the original emigrant and father of Marie Victoire's father, had arrived by 1706 when his first known legitimate child was baptized in Léogane.³⁶ Léogane was a third-tier port situated in the south of Saint-Domingue's Western Province, and when Jean Baptiste made it his home settlers were just beginning to replace buccaneers after the Spanish officially ceded it to the French in 1697.³⁷ In its transition to a settler colony both indentured servants and enslaved labourers worked Saint-Domingue's fields, and Morisseau could have initially arrived as a bonded labourer.³⁸ De Saint-Méry asserts that Morisseau senior emigrated from the town of Lude in the Sarthe region of northwest France, an area which drew indentured servants and other settlers, often petty criminals or desperate exemplars of the dregs of society seeking economic opportunity that was unavailable in France, thus inscribing him and his family within the compass of de Saint-Méry's vision of Saint-Domingue as a place of economic and social mobility.³⁹

If opportunity was what Jean Baptiste sought, he found it. Circumstantial evidence suggests that he married soon after his arrival in the colony. While few marriage records exist from Léogane from before 1710, and I have not been able to locate his, his wife Marie Madelaine Dugas's relations acted as godparents to several of their children, so they must have been established in the area.⁴⁰ Marie Madelaine Dugas's racial ascription was unspecified in the parish records; this early in the century racial descriptors rarely attached to names and racial categorization was highly flexible and often related to economic status, so could vary over the course of an individual's life. While she was not always referred to as "Madame" in her children's baptism records, neither was her White French husband always referred to as "Sieur."⁴¹ It is certainly possible that her family may have been an established free family of colour; intermarriage between such families and Whites were common and allowed newly arrived men access to land, resources, and connections. The occasional omission of the honorific also suggests, though, their relatively low social status; at this time, they were not planters.

By 1718, the Morisseau family made its way to Petite Rivière de l'Artibonite with five small legitimate children in tow, including François. The family continued to grow; Marie Madelaine Dugas gave birth to a total of nine children from 1706

36 ANOM, État civil, Léogane, "Jean Baptiste Morisseau," May 18, 1706.

37 On the early history of the French Caribbean, see Philip P. Boucher, *France and the American Tropics to 1700: Tropics of Discontent?* (Baltimore, MD: Johns Hopkins University Press, 2008).

38 Gabriel Debien, "Les Engagés pour les Antilles, 1634-1715," *Revue d'histoire des colonies*, vol. 37 (1951), pp. 2-277.

39 Moreau de Saint-Méry, *La Description*, vol. 3, p. 1528.

40 ANOM, État civil, Léogane, "Jean Baptiste Morisseau," June 1, 1707; "Paul Morisseau," June 4, 1708; and "Elizabeth Morisseau," January 14, 1716.

41 For example, at the baptisms of Paul and Marie Magdeleine neither Jean Baptiste nor Marie Madeleine Dugas were given an honorific; at the baptisms of François and Elizabeth, he was not but she was. See note 42 for dates.

until her death in 1726.⁴² In Petite Rivière Jean Baptiste prospered. He became, in de Saint-Méry's words, "l'un des premiers habitants du quartier."⁴³ Situated as it was on the Artibonite plain, Petite Rivière was one of the most productive areas of the colony. Its monoculture focused on indigo and cotton, especially in "les hauts de l'Artibonite," the higher ground where the Morisseaus acquired land, while sugar dominated the lower parts of the plain.⁴⁴ The Morisseaus remained in Petite Rivière for at least 60 years and three generations, a remarkably long time in Dominguan terms, where successful residents tended to return to France. They were still in Petite Rivière at the time of the disastrous flood of October 1780, when, despite the elevation of their land, their plantation was submerged when the river rose at a rate of six feet per hour.⁴⁵ Somewhere along the way they began styling themselves "Morisseau d'Ester," presumably after the canton and river of that name, near where their land was situated.

Over the course of the eighteenth century, the Morisseaus grew and prospered in Petite Rivière. Jean Baptiste's daughters married the sons of local planters.⁴⁶ The family's position in death indicated their standing in life as some of the foremost residents in the region; Jean Baptiste and his legitimate White children were buried inside the church.⁴⁷ By the 1750s, the number of Morisseau siblings had been reduced to three: François, the eldest, born in Léogane in 1710 and Marie Victoire's father; Philippe, nearly a dozen years his junior and Marie Victoire's godfather; and Laurent, the youngest surviving sibling and godfather to Marie Victoire's brothers.⁴⁸ I have found no evidence that either François or Philippe married, although Laurent did.⁴⁹ All three, however, fathered children.

The White Morisseau men begat multiple mixed-race children, as was so common in Saint-Domingue. At least 14 "natural" mixed-race children bearing

42 In ANOM, État civil before Légane, baptism records of Jean Baptiste, June 1, 1707; Paul, June 4, 1708; François, September 2, 1710; Marie Magdeleine, December 9, 1711; and Elizabeth, January 14, 1716, ANOM, État civil, M. In Petite Rivière, Marie Catherine, March 17, 1718; Marie Charlotte, April 1, 1720; Philippe Augustin, January 14, 1722; and Laurent, March 26, 1724.

43 Moreau de Saint-Méry, *La Description*, vol. 3, p. 1528. There is some discrepancy in the name of the elder Morisseau. De Saint-Méry calls him Charles, but in every parish record he is listed as Jean Baptiste. I do not doubt that this was the same person, as Laurent Morisseau's marriage record in 1755 gives the name of both his parents. Jean Baptiste Morisseau and Madeleine Dugas are listed as the legitimate parents of a number of children born in Petite Rivière beginning in 1718, including Philippe in 1722. ANOM, État-Civil.

44 Moreau de Saint-Méry, *La Description*, vol. 2, p. 853.

45 Moreau de Saint-Méry, *La Description*, vol. 2, p. 827.

46 ANOM, État civil, Petite Rivière de l'Artibonite, Marriage of Marie Madelaine Morisseau and Pierre Jumelle, April 25, 1730; Marriage of Marie Charlotte Morisseau and Auguste Raynaud, October 25, 1737.

47 Jean Baptiste was buried inside "la chapelle à gauche, en entrant par la grande porte," surely a place of honor. ANOM, État civil, Petite Rivière de l'Artibonite "Enterrement de Jean Baptiste Morisseau," September 4, 1742. Later Philippe Morisseau was buried in the church, beside "le banc de sa famille." ANOM, État civil, Petite Rivière de l'Artibonite, "Enterrement de Philippe Morisseau," January 20, 1759.

48 ANOM, État civil, Petite Rivière de l'Artibonite, "François Morisseau," September 2, 1710; "Philippe Augustin Morisseau," January 14, 1722 (born September 1, 1721); and "Laurent Morisseau," March 26, 1724.

49 ANOM, État civil, Petite Rivière de l'Artibonite, Marriage of Laurent Morisseau to Renée Rosalie Michel, February 12, 1755. There is some confusion in the records between François and Laurent Morisseau. While they were certainly distinct individuals, as I found baptism records for both of them, in the later lawsuit the plaintiff, who I believe to be François, refers to Renée Rosalie Michel as his wife.

the Morisseau name or with a known biological connection appeared in the Petite Rivière parish records from 1733 to 1767. Jean Baptiste, the patriarch of the family, fathered at least one natural mixed-race child, his son François at least three, and Philippe at least one.⁵⁰ The White Morisseau women seemed to take this as a matter of course, attesting to just how deeply this practice penetrated and how widely it was accepted.⁵¹ After Renée Rosalie Michel married Laurent Morisseau in 1755, Marie Victoire's daughter Marie Rosalie Florimonde was only one of at least five different mixed-race "natural" Morisseau children for whom she stood as godmother from 1757 to 1765.⁵² The two branches of this same family seemed to coexist, aware of each other and accepting their intertwined roots as a fact of colonial Caribbean life, with the Whites presumably publicly acknowledging the de facto freedom of their mixed-race kin, even if they had not gone through the formal de jure emancipation process. This disjuncture between legal protocol and common practice attests to the broad possibilities for informal, socially constructed freedom. It also exposes the extreme vulnerability of free people of colour whose emancipation had not undergone the formal ratification process. As the subsequent court case demonstrated, this could even include those who possessed extensive documentary evidence of their freedom, such as Marie Victoire.

Free or Enslaved?

It is not quite clear when the relationship between the two Morisseau branches soured. Marie Victoire's choice of her White aunt as her daughter's godmother in 1765 suggests that at that point their interactions were not only amicable, but also that she saw the association as beneficial for her daughter, both in the present and for the future. By sometime in 1770, however, the connection went so rancid that François Morisseau brought a case before the intendant and governor of the

50 May 29, 1752, Marie Magdeleine Morisseau identified herself as the "fille naturelle de deffunt Jean Baptiste Morisseau et de Geneviève Thibault" in her marriage record. François Morisseau is identified as the father of Nicolas, Marie Victoire, and Jerome, all baptized August 13, 1748. Philippe Morisseau is named as the father of Marie Renée, baptized March 13, 1757. Other free coloured Morisseau children of uncertain paternity include Bonne, who died January 2, 1733 aged about five; an unnamed child of about 20 months, buried April 15, 1750; Margueritte, who died August 7, 1754, aged about 17; two children named Renée Rosalie, one baptized June 25, 1762 and one baptized October 11, 1762; an unnamed infant who was buried July 29, 1767. There were other free coloured Morisseaus as well, although as yet I have found no documentary evidence of their relationship. Jerome Morisseau was listed as the father of mixed-race children twice; this Jerome cannot be Marie Victoire's brother, as at the time of the first baptism he would have been only four or five. "Michel Jerome Morisseau," baptism record, March 21, 1754; the baby's godfather was a relative of Marie Madeleine Morisseau's husband, giving credence to a connection. Also see "Michel Jerome Morisseau," March 3, 1751. ANOM, État civil, Petite Rivière de l'Artibonite.

51 Matthew Gerber, *Bastards: Politics, Family, and Law in Early Modern France* (New York: Oxford University Press, 2012).

52 ANOM, État civil, Petite Rivière de l'Artibonite, Marriage, February 12, 1755. She was godmother to: Marie Renée, Philippe's daughter, March 13, 1757; Renée Rosalie, natural daughter of a mulâtresse named Magdeleine Morisseau and Sieur Pastoinet, on June 24, 1759; Renée Rosalie, daughter of François mulâtresse and "un père inconnu" (but she lived Chez M. Jumelle, who is highly implicated), June 25, 1762; Renée Rosalie, daughter of Magdeleine and "un père inconnu," October 11, 1762; and Marie Rosalie Florimonde, baptized March 15, 1765, daughter of Marie Victoire and Alexandre Florimond Cerfeuille. All in ANOM, Petite Rivière de l'Artibonite.

colony that attempted to enslave his daughter, by this point a woman of 25 or 26, who, according to all evidence except his own, had lived as free since her birth.

Probably sometime in 1770, Marie Victoire ran away from François Morisseau's plantation in the company of six other "mulâtres ou mulâtresses," one of whom was her daughter Marie Rosalie Florimonde, and others of whom could have been her brothers or other "natural" Morisseau children. This was an extraordinary turn of events, as evidence from her life up to this point paints a picture of freedom. While her motives for running of course went unrecorded, her flight makes clear the extreme consonance between patriarchal and White supremacist authority. Whether escaping an owner, a father, or both, his powers to pursue her and bring her back were broadly the same. This points to a gap in administrative efforts to curb planter authority; in the case of mixed-race children paternal authority overlapped with the authority that came from ownership and so was difficult to check.

The subsequent actions of her father, François Morisseau, suggest that he did not regard this as a simple case of marronnage. In later years, runaways from the Morisseau plantation prompted advertisements in the *Affiches américaines*.⁵³ Instead, in this instance in 1771, he brought the case before the intendant and governor of Saint-Domingue, asking that they enforce the return to the plantation of the six runaways. On the surface he presents this as a clear case of property rights: as an owner of enslaved people, François had claims to the bodies and labour of those he enslaved. Yet the claims he made demonstrate that more was at issue than the monetary value of property.

It all started, François suggested, with the death of his brother Philippe. All available information about the Morisseaus suggests their prosperity: their ownership of land on the Artibonite plain, their burial inside of the parish church of Petite Rivière, their identification as planters, and their intermarriage with other planter families. Yet François alleged that his brother Philippe had died a pauper, leaving him, as his beneficiary, nothing "qu'une succession onéreuse, dont le suppliant a acquitté les dettes par respect pour la mémoire du défunt Philippe qui ne laissait pas de biens suffisants pour payer ses créanciers."⁵⁴ According to François, not only did Philippe leave these substantial debts, he also "accordé la liberté, par son testament, à six mulâtres ou mulâtresses, et entre autres à la nommée Marie Victoire et sa fille."⁵⁵ By the time François filed his initial case in 1771, White colonists were well aware of administrative efforts to bring emancipation under royal control, and were also well practiced in evading these procedures.⁵⁶ From 1767, however, the colonial conseils apparently consistently

53 See runaway advertisements from www.marronnage.info, *Affiches américaines* : Charles, "un Negre Créole," November 24, 1773; "Cinq Nègres, nommés Louis, nation Mine, Pierre, Congo, Tartufe, Congo, Gotton, négresse, Conto, & Patience, Congo," January 29, 1777; and "Frontin, nation Sénégalaise," March 22, 1783.

54 Arrêt, December 22, 1775.

55 Arrêt, December 22, 1775.

56 Garrigus, *Before Haiti*, pp. 85-86; Debien, *Les Esclaves aux Antilles françaises, XVII^e-XVIII^e siècles* (Basse-Terre : Société d'histoire de la Guadeloupe, 1974), p. 374; King, *Blue Coat or Powdered Wig*, pp. 108-109. In Moreau de Saint-Méry, *Loix et constitutions*, see "Ordonnance du Roi, concernant l'Affranchissement des Esclaves des Isles; et Ordonnance des Administrateurs en conséquence," June 15,

enforced the expensive, time-consuming, and highly bureaucratic manumission processes.⁵⁷ While owners of enslaved people may have viewed this as a battle lost, the real losers were free people of colour, perhaps especially those related to Whites. Except in exceptional circumstances, Whites had little incentive to comply with these time-consuming and expensive directives, and many had considerable reasons to avoid doing so.

François's assertion of his brother's indebtedness gave him a clear motive to avoid emancipating the six enslaved people, yet he repeatedly insisted that his own reasons were neither pecuniary nor unfair: "l'intérêt personnel du suppliant n'est pas le seul motif Il représentait qu'on ne pouvait le soupçonner ni d'injustice ni d'avarice."⁵⁸ Instead, he stressed the importance of maintaining order and hierarchy, which in a slave society flowed from the crown, and positioned himself, as an owner of enslaved people, as having an interest in upholding strict control. He warned that the social order would be upended "si les esclaves voyant qu'en se procurant un protecteur versé dans la science du palais, on parvient à exciter les supérieurs mêmes contre les maitres [*sic*], en faveur d'une mulâtresse insolente, indocile et qui se révolte avec succès contre les premiers règles de la subordination."⁵⁹ The enslaved, in other words, must be kept in their place and it was up to the crown to keep them there. He even had suggestions about how to do it. "Peut-être même," he recommended, "croira-t-il qu'il est de sa sagesse de faire un règlement sévère pour déraciner l'abus qui s'est introduit dans la colonie de donner dans les extraits de baptême la qualité de libres, aux personnes qui n'ont pas été affranchies avec toutes les solennités prescrites par les loix."⁶⁰ Yet this was also personal. To François, the relationship between the enslaved and owners was both hierarchical and patriarchal, a legal but also cultural relationship that had extreme power differentials at its core—and he wanted to make Marie Victoire acknowledge this. François "ne voulait que leurs [*sic*] faire sentir leur ingratitude et leurs [*sic*] faire voir que leur sort dépendait de lui."⁶¹ He wanted the enslaved people emancipated by his brother, therefore, to show gratitude for this boon in a way he considered appropriate to their station. He wanted them to *act* like slaves as he understood them. He emphasized that the crown also had an interest in promoting and maintaining this hierarchy, which he positioned as central to colonial order. "La loy est formelle là dessus dans les colonies

1736, vol. 3, pp. 453-454; "Ordonnance des Administrateurs, qui fixe à 300 liv. le prix de la ratification des Libertés par le Gouvernement," October 10, 1764, vol. 4, pp. 798-799; "Ordonnance générale des Milices," January 15, 1765, vol. 4, pp. 812-824; "Ordonnance du Roi, concernant le Gouvernement Civil des Isles sous le Vent," February 2, 1766, vol. 5, pp. 13-27, art. XXVII; "Arrêt du Conseil du Port-au-Prince, touchant les Affranchissem[en]ts," December 29, 1767, vol. 5, pp. 149-150; "Arrêt du Conseil du Cap, touchant l'Affranchissement des Esclaves," January 28, 1768, vol. 5, pp. 152-153; "Ordonnance du Roi, sur la forme des affranchissem[en]ts des Esclaves," July 10, 1768, vol. 5, pp. 190-192; "Ordonnance du Roi, touchant le Gouvernement Civil," May 22, 1775, vol. 5, pp. 577-587, art. XI; and "Ordonnance des Administrateurs concernant les Libertés," vol. 5, pp. 610-613.

57 Garrigus, *Before Haiti*, p. 86.

58 Arrêt, December 22, 1775.

59 Arrêt, December 22, 1775.

60 Arrêt, December 22, 1775.

61 Arrêt, December 22, 1775.

relativement aux esclaves affranchis atteints d'ingratitude envers les auteurs de leurs affranchissement[ts]."⁶²

The long span of time over which the case unfolded further highlights that financial motives played a secondary role. François Morisseau originally initiated the suit against Marie Victoire in 1770 or 1771.⁶³ He implied that this followed directly in the wake of the death of his brother Philippe: "À sa mort tous [six mulâtres ou mulâtresses] quittèrent l'habitation, sans permission du suppliant."⁶⁴ These six, among them Marie Victoire and her daughter, were the ones whom Philippe had emancipated in his will. Yet Philippe had actually died a dozen years previously in 1759, not immediately before the mass marronnage as François implied.⁶⁵ This suggests that what was at stake was not simply the monetary value of property, but rather who had the right to determine who was property and who was not. All runaways made a strong case to self-ownership. But in Marie Victoire's case, the questioning of to whom she belonged—herself or her father/owner—was particularly important because it pitted a social definition of slavery against a legal one. She seemed to have lived as free. For some reason, however, this social freedom was tenuous enough that she felt compelled to flee, thereby forcibly declaring her independence. Because of this dramatic act, her father, François, was able to frame freedom as not a social category, but a legal one.

François objected to the flight of the mulâtres and mulâtresses most strenuously, not disputing their right to freedom per se, but rather balking at their seizure of it on their own terms. He stated, "quoiqu'il soit de principe certain dans ces cas, pour que la liberté soit valablement acquise, il faut le consentement de l'héritier, que cet héritier lui-même en demande la ratification aux général et intendant et que le tout soit enregistré au greffe après les formalités requises."⁶⁶ This positions emancipation firmly as a legal category, ignoring the uncertainties and fluidities of freedom as a lived category. François does not simply assert his prerogative to mediate the boundary between slavery and freedom, however, perhaps because he knew such an appeal would fail in a court system run by royal functionaries. Rather, he emphasized the importance of the legal process, claiming for himself only the right to initiate emancipation before the governor and intendant.

François initially approached this problem through local channels. He called the maréchaussée, the Dominguan police force made up primarily of men of colour that was charged with pursuing enslaved people who ran away. The maréchaussée soon caught up with the six, "lui prêtât main forte, pour les faire mettre à la barre où en prison."⁶⁷ Yet François must have known, even at this early date, that there was

62 Arrêt, December 22, 1775.

63 The subsequent report indicates that the original ordinance was issued February 15, 1771, Arrêt, December 22, 1775. Sue Peabody, "Nègrresse, Mulâtresse, Citoyenne," pp. 62-63; Ghachem, *The Old Regime and the Haitian Revolution*, pp. 105-112; Eddins, "African Diaspora Collective Action," p. 222; "Arrêt du Conseil d'État," December 22, 1775, in Moreau de Saint-Méry, *Loix et constitutions*, vol. 5, pp. 653-655.

64 Arrêt, December 22, 1775.

65 ANOM, Petite Rivière de l'Artibonite, Enterrement Philippe Augustin Morisseau, July 20, 1759.

66 Arrêt, December 22, 1775.

67 Arrêt, December 22, 1775.

more at play, for he also sought the intervention of the governor, Pierre Gédéon de Nolivos, comte de Nolivos, and the intendant, Alexandre Jacques de Bongars. He did this not to initiate the emancipation process, as his adamant expressions about respecting his brother's wishes might suggest, but rather to get support for his own position and to force the runaways back to his plantation.

Perhaps he expected from the reputations of these officials that he would receive a sympathetic response. Like François, Nolivos was a native of Saint-Domingue, an owner of enslaved people, and a plantation owner, whose wife was also a creole; he was thus deeply familiar with and immersed in the culture of the planters.⁶⁸ Bongars had a legal career, serving on the Parlement of Metz until his 1766 appointment as intendant of Saint-Domingue. His term was highly regarded enough that he reprised this role in the 1780s. Thus, it came as little surprise when they issued an ordinance on February 15, 1771, that did indeed uphold the role of the law in determining freedom and positioned emancipation as an exceptional reward. They thereby confirmed François's position and ruled that the runaways must return to the plantation, but also asked François to initiate the emancipation process immediately: "l'exhortant à leur demander lui-même la grâce que son frère avait eu intention de procurer à ces esclaves, si ces esclaves travaillaient par leur conduite à la mériter."⁶⁹ This ordinance thus simultaneously emphasized the authority of the crown as exercised through the governor and intendant, confirmed the property rights of those who owned enslaved people, and upheld the supremacy of White patriarchal authority, partly by encouraging François to adhere to "la grâce" his brother had intended. While this provision seems to push toward a binary social order based on race, it also inscribes a patriarchal hierarchy predicated on munificence and obligation. Freedom, here, was neither a right nor an achievement; it was only a gift, albeit one of such magnitude that it deserved perpetual gratitude.

Yet the runaways, especially Marie Victoire, did not act in a way that François considered "meriting" emancipation. Rather, "les esclaves avaient commencé par le braver et par désertier. Marie Victoire surtout avait tenu les discours les plus insolent[t]s sur le suppliant et sur sa femme. Il ne voulait que leurs [*sic*] faire sentir leur ingratitude et leurs [*sic*] faire voire que leur sort dépendait de lui."⁷⁰ This passage reveals that in spite of efforts to rein freedom in under the law, it remained something that could be claimed, not only given. Nonetheless, François's desire to make the six runaways *act* a certain way (subservient, grateful, imploring, recognizing his power over them) had sound legal footing. The *Code Noir* decreed, "Commandons aux Affranchis de porter un respect singulier à leurs anciens Maîtres, à leurs Veuves & à leurs Enfan[t]s; en sorte que l'injure qu'ils auront

68 Robert Le Blant, "Un officier béarnais à Saint-Domingue. Pierre Gédéon Ier de Nolivos, chevalier de l'Ordre royal et militaire de Saint Louis ... 1706-1732," *Revue historique et archéologique du Béarn et du Pays basque* 2^e série, no. 13 (1931).

69 Arrêt, December 22, 1775. There were instances where heirs overturned emancipation processes that had been initiated by slave owners before their deaths. "Ordonnance des Administrateurs, qui, à la Requête de la dame de Silvecanne, déclare nulle la liberté accordée à seize Esclaves par son mari, sans ratifications par les Administrateurs," September 5, 1742, in Moreau de Saint-Méry, *Loix et constitutions*, vol. 3, p. 703.

70 Arrêt, December 22, 1775.

faite soit punie plus grièvement, que si elle étoit fait à une autre personne.”⁷¹ This mandate was reiterated and expanded in 1779, making perpetual gratitude to Whites a condition of emancipation.⁷² It seems, then, that François was well within his rights as an owner of enslaved people in demanding respect even from people on the cusp of emancipation. However, the *Code Noir* also made clear that freed people owed their former owners nothing but respect: “Les déclarons toutefois francs et quittes envers eux de toutes autres charges, services et droits utiles que leurs anciens Maîtres voudroient prétendre, tant sur leurs personnes, que sur leurs biens et successions en qualité de Patrons.”⁷³ Marie Victoire was caught in the tensions of this passage. From François’s point of view, Marie Victoire’s defiance fell into the category of impermissible ingratitude. On the other hand, the *Code Noir* classified freed people as royal subjects free of other burdens; they did not have to live on the plantations of their former owners or accede to their demands. At the same time, Marie Victoire’s defiance of her father’s expectations was double-edged, as she challenged his authority both as a father and as a White owner of enslaved people.

In this case, however, Morisseau’s attempts to control the behaviour of the mulâtres and mulâtresses were of limited efficacy; all six ran away again. Contrary to contemporary gender expectations, which framed men as active and women as passive, the four men returned to Morisseau’s plantation once they learned of the February 15, 1771, ordinance promulgated by the governor and intendant that required that they do so; subsequently, Morisseau freed them. However, “Marie Victoire seule et sa fille, persista dans sa révolte.”⁷⁴ She fled a second time, and Morisseau sent the maréchassée after her again. They captured her, threw her behind bars, and after several days “la laisse en liberté sur l’habitation pour lui donner la faculté de mériter son affranchissement.”⁷⁵ This was a characterization of “liberty” with which Marie Victoire clearly disagreed; she continued her “discours les plus insolent[s]” against François and his wife, and she left the plantation a third time.

She timed this final flight to coincide with the recall of both the intendant and the governor of the colony, which suggests that it must have taken place in the second half of 1771 or early 1772, about six or more months after the initial administrative order that the six “mulâtres ou mulâtresses” return to the plantation. Malick Ghachem reads this, with good reason, as evidence “that at least some slaves and free persons were attuned to the implications that changes in colonial administration might have on their lives.”⁷⁶ She clearly had nothing

71 Moreau de Saint-Méry, *Loix et constitutions*, “Code Noir ou Edit servant de Règlement pour le Gouvernement et l’Administration de la Justice et de la Police des Isles Françaises de l’Amérique, et pour la Discipline et le Commerce des Negres et Esclaves dans ledit Pays,” (hereafter Code Noir), March 1685, vol. 1, pp. 414-424, art. LVIII.

72 Moreau de Saint-Méry, *Loix et constitutions*, “Règlement provisoire des Administrateurs, concernant le Luxe des Gens de couleur,” in February 9, 1779, vol. 5, pp. 855-856, art. I.

73 Code Noir.

74 Arrêt, December 22, 1775.

75 Arrêt, December 22, 1775.

76 Ghachem, *The Old Regime and the Haitian Revolution*, p. 107. The brief interim governorship of Étienne-Louis Ferron de la Ferronnays seemed to have no impact.

to lose, and flight must have seemed like her best option. Yet she actively sought to confirm her freedom through official channels as well. She managed to bring her case to the attention of the new governor and intendant who arrived to take the place of those who had ruled against her. Her appeal for a review implies more than even familiarity with the personal or legal proclivities of royal officials. It also demonstrates knowledge of the workings of the colonial legal system, awareness of evolving standards of documentary evidence, and the force and initiative necessary to prompt a review. At her exhortation, the new officials reviewed Marie Victoire's case and reversed the earlier decision in an ordinance of May 24, 1774, declaring both Marie Victoire and her daughter, identified as "Marie Rosalie Florimonde Cocosby," "libres de naissance."⁷⁷ They concluded, "nous nous sommes assurez qu'elle étoit [*sic*] dans le cas de mériter la grâce que votre frère, dont vous avez recueilli la succession, a voulu luy faire: nous vous exhortons donc à nous demander instamment sa liberté."⁷⁸ Furthermore, the ruling forbade "aux Sr et De. Morrisseau [*sic*] et à tous autres d'exercer à l'avenir contre les d.[ites] Marie Victoire et Marie Rosalie Florimonde Cocosby, aucune voie de fait."⁷⁹ While this reversal struck a blow at the broad cultural supremacy of Whites, demonstrating that royal officials did not simply enforce racial hierarchy at all costs, it also accrued to the crown sovereignty over the right to determine conditions of enslavement. Besides, the decision was based on sound written evidence: Marie Victoire produced a notary contract, a baptism record, and proof of her mother's emancipation by her father dated two years before her birth.⁸⁰ All these documents seemed to give clear evidence to her claim that she had been born free, and any one of them should have been sufficient to uphold her claim in court.

"Proof"

In France and its empire, documentary evidence had long been privileged over oral testimony.⁸¹ Both parish records and notary records had a venerable history as juridically reliable proof in French society in general. Parish records, made by priests at the significant sacramentary moments of baptism, marriage, and burial, resonated of the eternal. Their import, however, went beyond religion. Since the mid-sixteenth century they had regulated the civil personhood of French subjects, including their social position, in a way that extended outside of their religious function.⁸² For example, parish records often indicated the profession

77 Arrêt, December 22, 1775.

78 I have not found record of the May 24, 1774 decision in the archives. An excerpt is cited in ANOM, Secrétariat d'État à la Marine, Personnel colonial ancien, COL E 317, "Appel d'ordonnance des administrateurs le S Moriceau [*sic*] de l'Ester," May 20, 1777 (hereafter Appel, May 20, 1777).

79 Ruling of May 24, 1774, quoted in Arrêt, December 22, 1775.

80 Appel, May 20, 1777.

81 See Julie Hardwick, *The Practice of Patriarchy: Gender and the Politics of Household Authority in Early Modern France* (University Park: Pennsylvania State University Press, 1998), p. 5, on the prevalence of written testimony in the French legal system, versus oral testimony in the Anglo-American context.

82 Sarah Hanley, "Engendering the State: Family Formation and State Building in Early Modern France," *French Historical Studies*, vol. 16, no. 1 (1989), pp. 4-27. A 1556 edict required parental consent for marriages of children; subsequent legislation mandated increased publicity through the publication of the banns, and written proof (or the testimony of six witnesses) of parental consent, social status, and residence (p. 10). Only legitimate children were eligible to be the primary legatees of their parents' estates.

of the baptized infant's father (although rarely the mother), and sometimes used subtle language to signal social status, including "le/la nommé/e," terms that were later adopted in Saint-Domingue and could be correlated with race. Similarly, notarial documents were the foundation of private transactions, and notaries thus acted as gatekeepers in determining who owned or could buy or sell property of all types. Further, the very existence of a notarial contract implied a face-to-face meeting.⁸³ In the colonial context this was particularly important, as it meant that notaries met and interacted with their clients and thus could make their own judgements about race based on skin colour, but also on appearance, actions, and other social cues. Together, these two Old Regime institutions—the church and the notariat—formed twin pillars reinforcing the authority of the crown to regulate family relationships, racial categories, and property.

In Saint-Domingue, as in France, parish registers and notary contracts were both regularly accepted as confirmation of civil and social status. Increasingly, they also provided proof of racial background, and individuals were asked to produce them as evidence not only of their own but also their forbearers' race. Both colonial administrators and the crown recognized the essential gatekeeping function performed by priests and notaries, and by the 1770s they figured out how to harness their social interventions to help police the colour line. An ordinance of 1761 reiterated a 1736 provision that required priests and notaries to view documentary evidence that "proved" the racial makeup of people of colour who required their services.⁸⁴ In a further collapsing of race and slavery, by 1773 priests and notaries were prohibited from attributing "White" surnames to free people of colour, who were required to use only names "de l'Idiome Africain." The same ordinance required all people of colour to present documentary proof of their freedom before entering into contracts or being entered into parish records.⁸⁵ These provisions elevated the significance of parish and notary contracts even further in legally determining race and slave or free status. For example, John Garrigus recounts a 1768 case that hinged on the inability of a woman to produce her grandmother's baptism certificate from St. Kitt's in the late seventeenth century.⁸⁶ People of colour could also use parish records strategically to give evidence of their freedom; Rob Taber cites an instance where a woman of colour

From 1579, priests were required to provide civil officials with copies of parish registers annually. An Ordonnance of 1579 required priests to submit copies of parish records to civil officials every year; an edict of 1668 further mandated that priests keep two copies of parish records and submit one to civil authorities each year; and edicts of 1697 specified in detail which statistics should be entered in parish records and specified penalties for priests who failed in their duties (p. 14).

83 See Hardwick, *The Practice of Patriarchy*, p. 46, on face-to-face meetings.

84 In Moreau de Saint-Méry, *Loix et constitutions*, see "Ordonnance du Roi, concernant l'Affranchissement des Esclaves des Isles; et Ordonnance des Administrateurs en conséquence," June 15, 1736, vol. 3, pp. 453-454; and "Arrêt de Règlement du Conseil du Port-au-Prince, qui enjoin[t] aux Notaires et aux Curés d'insérer dans leurs actes les qualités des Nègres, Mulâtres, Quarterons, et autres gens de sang mêlé," September 24, 1761, vol. 4, pp. 412-413. See also Ghachem, *The Old Regime and the Haitian Revolution*, p. 92.

85 "Règlement des Administrateurs concernant les Gens de couleur libres," June 24 and July 16, 1773, in Moreau de Saint-Méry, *Loix et constitutions*, vol. 5, pp. 448-450, art. I; art VI. Also, see Ghachem, *The Old Regime and the Haitian Revolution*, pp. 103-104.

86 Garrigus, *Before Haiti*, pp. 148-149.

claiming free status produced the baptismal certificate of her child in 1763 to show that she herself was free. The notary drawing up her contract 14 years later accepted this as proof without question, although there was no indication that the woman had provided further evidence of her freedom.⁸⁷ These cases demonstrate that both the crown and individuals could harness the seeming inviolability of these records and contracts either to slam closed the pathway from slavery to freedom, or to tentatively prize it open.

Yet the increasing insistence on documentary evidence had one considerable social disadvantage for people of colour, particularly those who had been enslaved: these documents were always produced by Whites. This did not remove skin colour as a social category. On the contrary, because people of colour had to procure written “proof,” their social interactions with the Whites who produced these documents were vitally important. Yet by placing the burden of proof on people of colour, these regulations marked them as enslaved by default, unless they could prove otherwise. Nonetheless, the social interactions necessary for producing and procuring written evidence were a site where the seemingly intractable barrier between slavery and freedom had some give. This was an element that François Morisseau was quick to exploit as a weakness. If race had a social dimension as well as a legal one, priests and notaries could be influenced—François might say “duped”—by outward appearance, personal knowledge, or personal relationships. It was these personal relationships that he particularly targeted when in 1774 he appealed the case to the *Conseil du roi*, a court of last resort and the body that ruled on whether laws were properly applied.⁸⁸

While Marie Victoire’s baptism record did not specifically classify her as “libre,” the very fact of her baptism and the existence of the recorded act asserted her liberty. Priests often recorded the baptisms of Whites and free people of color in the same register, but never, as far as I know, mixed in records for baptisms of the enslaved. Yet even though she was born nearly three decades before free people of colour were required to present proof of liberty at baptism, François Morisseau was quick to point out that her mother Marie failed to do so, and to invest particular significance in it. He observed that, while the baptism record “a sans doute paru une pièce décisive aux nouveaux chefs,” he cautioned against reading it transparently as evidence that Marie Victoire had been born free. He warned, “ces énonciations sont sans conséquence dans les extraits de baptême, qui ne sont point les actes par lesquels on affranchit les esclaves. Ces extraits peuvent bien supposer la liberté, mais jamais la donner, si d’ailleurs elle n’a pas été accordée dans les formes prescrites par les loix et par des actes formels et solennels.”⁸⁹ Here he pits the law and common practice against each other, in the process delegitimizing baptism as a signifier of liberty. Legally, he was right. While in practice owners of the enslaved continued to use baptism as an informal

87 Taber, “The Issue of Their Union,” pp. 17-18.

88 Lucien Bély, ed. *Dictionnaire de l’Ancien Régime : Royaume de France, XVI^e-XVIII^e siècle* (Paris, 1996), s.v. “Conseil du roi,” cited in Gerber, “Bastardy, Race, and Law,” p. 571. Marie Victoire’s case was one of the few from Saint-Domingue that was appealed to the Conseil du roi. For an analysis of *Jamet v. Guerre*, a 1772 case that was appealed to the Conseil du roi, see Gerber, “Bastardy, Race, and Law,” pp. 588-593.

89 Arrêt, December 22, 1775.

means of emancipation, this custom, by 1748 when she was baptized, had no legal standing.⁹⁰

Further, while François may not have realized it, his push to question baptism as a pathway to emancipation dovetailed with both monarchical efforts to consolidate royal authority at the expense of the church and the general anticlerical zeitgeist of the Enlightenment. Saint-Domingue had a reputation for godlessness, not anticlericalism, but after all it was a tricky proposition to discredit a record produced by a priest. By emphasizing the distinct realms of civil and ecclesiastical authority, he could both call this evidence into question and portray the new officials' decision as misguided and ultimately incorrect without either accusing it of being illegitimate or undermining their overall authority. In fact, he did this by emphasizing their piety and implying that it clouded their view of events: "Le S. Moriceau [*sic*] ne pouvant concevoir que les administrateurs lui tinssent un pareil langage, relativement à une esclave fugitive pour la troisième fois, si leur Religion n'avoit pas été surprise, ne crût pas devoir adhérer à cette exhortation."⁹¹ At the same time, this strategy enabled him to quickly gloss over his own and his brother's actual signatures in the parish register, which the new intendant and governor must have interpreted as the brothers' acknowledgement of the freedom of both Marie Victoire and her daughter. He claimed that "Les signatures des Srs Moriceau [*sic*] ne leur donnent pas plus de poids, puis qu'elles ne peuvent suppléer à des formalités rigoureusement prescrites par les règlements faits sur cette matière."⁹² The only documentation that mattered, he implied, was that produced by the slow grinding of the colonial administrative machine.

While François dismissed evidence of the baptism record by pointing out that it failed to indicate that the correct legal procedure for emancipation had been followed, he discredited the notary record through the established trope of mixed-race women's dangerous and corrupting sexuality.⁹³ François made the accusation that Marie Victoire "était entretenue dans sa révolte par un notaire qui était père de la petite mulâtresse sa fille."⁹⁴ The notary Cerfeuille, referred to in the appeal documents as Florimond, played a key role in the "intrigues" that ensued, with Morisseau casting him as the mastermind of the process.⁹⁵ "C'est lui," he alleged, "qui entretenoit cette mulâtresse dans son insubordination et sa mauvaise

90 Ghachem, *The Old Regime and the Haitian Revolution*, pp. 86-87; "Ordonnance du Roi concernant l'Affranchissement des Esclaves des Isles; et Ordonnance des Administrateurs en conséquence," June 15, 1736, in Moreau de Saint-Méry, *Loix et Constitutions*, vol. 3, pp. 453-454.

91 Appel, May 20, 1777

92 Appel, May 20, 1777.

93 Yvonne Fabella, "An Empire Founded on Libertinage": The *Mulâtresse* and Colonial Anxiety in Saint Domingue," in Nora Jaffary, ed., *Gender, Race, and Religion in the Colonization of the Americas* (Burlington, VT: Ashgate, 2007), pp. 109-124; John Garrigus, "'Sons of the Same Father': Gender, Race, and Citizenship in French Saint-Domingue, 1760-1792," in Jack R. Censer, Christine Adams, and Lisa Jane Graham, eds., *Visions and Revisions of Eighteenth-Century France* (University Park: Pennsylvania State University Press, 1997), pp. 137-154.

94 Arrêt, December 22, 1775. De Saint-Méry, a jurist himself, suppressed almost all the details given in other sources about the notary, including his name.

95 Moreau de Saint-Méry, *Loix et constitutions*, vol. 5, p. 654; Arrêt, December 22, 1775; Appel, May 20, 1777.

conduite, et qui trouva le moyen de prévenir les nouveaux chefs en sa faveur.”⁹⁶ François further accused him of colluding with Marie Victoire to fabricate a notary contract as legal evidence of her freedom: “pour faire plus d’illusion sur cette prétendue liberté de naissance, le notaire a fait viser dans l’ordonnance un bail à ferme qu’il dit passé au Sr Lefebvre le 18 Avril 1770 par Marie Victoire.” As this was the contract that Marie Victoire produced as a key proof of her free status, its legitimacy was vitally important. While Morisseau positioned the contract as a forgery, the details given make her version of events plausible. The Lefebvres were well-established and prominent White planters in Petite Rivière, and it seems unlikely Marie Victoire would bring them into the controversy without reason.⁹⁷

Insinuations about the corrupting influence of intimate relationships across racial lines therefore grounded Morisseau’s efforts to discredit Marie Victoire’s evidence. With truly incredibly hypocrisy given his own sexual past, he emphasized that “Un S. Florimond notaire vivoit en concubinage avec Marie Victoire, dont l’enfant est baptisé sous son nom.”⁹⁸ For Morisseau, their sexual relationship alone was evidence that Florimond was unduly influenced by Marie Victoire, here figured only as a scheming mulâtresse. Her sexual power unmanned him, Morisseau suggested, making him her dupe. Morisseau thus construed any efforts to help Marie Victoire as indicating his moral and sexual flaccidity. This made the very documents he produced unreliable, insufficient evidence to ascertain freedom.

Even royal officials, according to Morisseau, were not immune to the machinations that enabled people of colour, especially scheming mulâtresses, to manipulate the boundary between freedom and enslavement. This was a well-worn trope that had made its appearance in court before. Women of colour’s sexual fascination to royal personnel had been a factor in the freedom suit of Babette Binture in Martinique in the first decades of the eighteenth century.⁹⁹ While this allegation clearly relied on stereotypes about women of colour’s sexuality that were grounded in their sexual abuse, it also allocated to them a remarkable amount of ability to traverse the line between slavery and freedom, and agency in determining where that line lay. While in this case Morisseau did not suggest that Marie Victoire seduced the governor or the intendant with her body, he did imply that she seduced them with her falsified evidence. The new officials, he claimed, were not considering the same legal principle as the old ones. Instead, “Il parait [*sic*] ... qu’on a voulu juger une nouvelle question, et que la mulâtresse, au lieu de tirer son droit de l’affranchissement porté par le testament, ait voulu surprendre les nouveaux chefs en se présentant à eux comme libre de naissance : C’est en effet ce qu’ils jugent par leur ordonnance et pour la justifier ils y visent [*sic*] avec

⁹⁶ Appel, May 20, 1777.

⁹⁷ The first parish record I found concerning the Lefebvre family dates from 1713. ANOM, État civil, Petite Rivière de l’Artibonite, Marriage of Jacques Lefebvre and Anne Rossignol, September 27, 1713. The name appears consistently in the parish records from then on, although also with the variant spellings of Lefevre and Lefebvre.

⁹⁸ Appel, May 20, 1777.

⁹⁹ Peabody, “*Négresse, Mulâtresse, Citoyenne*,” pp. 58-60; Sue Peabody and Keila Grinberg, eds., *Slavery, Freedom, and the Law in the Atlantic World* (New York: MacMillan, 2007), pp. 36-42.

affectation des pièces qu'ils ont feints de regarder comme capables de constituer l'état libre de cette esclave."¹⁰⁰

Local knowledge, he implied, was essential in making such a decision, and the new officials relied too much on the written evidence of the baptism record. They did not understand the flexibility and corruptibility of such documents. While the earlier decision, he said, "était conforme aux lois de la colonie," the later one actually subverted them. In making this claim, however, Morisseau also undermined the authority of those who owned enslaved people to arbitrate the boundary between slavery and freedom: "Les maitres [*sic*] ne sont pas capables seuls de donner la liberté à leurs esclaves. Le bon ordre exige que les supérieurs jugent des raisons de ce bienfait et veillent à ce qu'il ne soit point accordé avec indiscretion."¹⁰¹ While a highly unusual position for a planter to take in the 1770s, he claimed to have the good of the French empire at heart. Declaring Marie Victoire born free, as the 1774 Ordinance had, "c'est un exemple trop dangereux dans une colonie aussi importante pour le laisser subsister."¹⁰²

A third key element of Marie Victoire's documentary proof was an ordinance issued on March 28, 1764, by the intendant and governor ratifying the manumission of her mother, Marie. Now this was different. While baptism and notary records could *confirm* free status, manumission papers actually *gave* it. Yet even here there was room for ambiguity. François Morisseau had initiated the manumission process by giving Marie her liberty—on paper—on August 25, 1743, two years before Marie Victoire's birth and soon after the birth of her eldest brother.¹⁰³ The 21-year delay between the manumission and its ratification goes unexplained; the manumission process was usually long, but generally took a matter of months, not decades. The 1743 manumission seems to indicate François's clear intent that Marie and their children, including Marie Victoire, have their freedom. Ultimately, though, intent, despite Marie Victoire's efforts, was not the issue. Rather, the question was about process, and what exactly had to happen in order for an enslaved person to become free. Under the laws regulating manumission there were no grey areas, no middle ground between slavery and freedom. It did not matter if Marie Victoire had lived her life as free, or if her mother's manumission did not get ratified simply because a minor functionary misfiled it. What mattered were simply the dates on the papers.

In the end, Morisseau's Parthian shot was to pose a seemingly common-sense question: if Marie Victoire had been born free, why did Philippe emancipate her in his will? The inevitable conclusion, he implied to royal officials, was that she was not; the very wish for her emancipation "prouve qu'elle n'a jamais cessé d'être esclave." This line of reasoning was particularly pernicious, as it undercut the complexities entwining the relationship between race and slave or free status and ignored the variety inherent in freedom. Instead, it presented slavery and freedom in straightforward dichotomous opposition, with their hard legal boundary

¹⁰⁰ Arrêt, December 22, 1775.

¹⁰¹ Arrêt, December 22, 1775.

¹⁰² Appel, May 20, 1777.

¹⁰³ Appel, May 20, 1777.

overseen by the crown. He asked the Conseil du roi “condamner la mulâtresse Marie Victoire et sa fille, à revenir sur son habitation, sinon ordonner qu’elle y sera ramenée par la maréchaussée, lui enjoindre d’y demeurer pour se rendre digne d’être affranchie, luy défendre de s’évader, sous peine de rester irrévocablement dans l’esclavage.”¹⁰⁴ The Conseil du roi found in his favor, and so as far as we know Marie Victoire and her daughter were, in fact, enslaved for the first time in their lives.

Conclusion

The final notes on the case, addressed to the king, positioned it firmly as part of an ongoing legal conflict over who had the right to emancipate the enslaved. “L’Édit de votre Majesté, de 1685, ...” it began, “avoit laissé aux maîtres, la faculté d’affranchir leurs esclaves par tous actes entre vifs et de dernière volonté.” But the specific exigencies of the colonial economy made this type of latitude perilous to sustain: “mais bientôt on reconnut que cette disposition puisée dans le droit Romain, seroit dangereuse dans un païs [*sic*] qui ne peut être cultivé que par des nègres.”¹⁰⁵ They cited the acts of 1713 and 1736 that restricted this right of owners of enslaved people, emphasizing particularly that they had to obtain the permission of the intendant and governor “auparavant,” before the freedom became official. They also emphasized baptism as a gatekeeping moment, touching on the importance of priests ascertaining proof of the mother’s freedom before baptizing a child, but also conceding the possibility that they might be duped and providing for it: “les enfants baptisés comme libres, dont les mères n’auroient pas été affranchies dans les règles, seroient toujours réputés esclaves.”¹⁰⁶ Within this strict framework, Marie Victoire never had a chance.

This was not, however, the only point royal officials made; the case report also censured Montarcher and Vallière, the intendant and governor who had ruled Marie Victoire free. It was not their job, the Conseil du roi ruled, to overturn rulings made by previous officials: “ces administrateurs sont sortir des bornes de leur autorité” in revisiting and revising a decision their predecessors had made. Furthermore, determining who was free and who was enslaved fell outside the bounds of their authority. Colonial officials had the right to authorize manumissions when sought by owners of the enslaved, but the law “ne leur a pas donné celui de prononcer sur une question d’état et de propriété.” To the Conseil, it came down to what they saw as the governor’s and intendant’s usurpation of the powers of state, by ruling on whether Marie Victoire was a person or property. While this line could be breached, the Conseil acceded, it was not up to colonial officials to decide when, how, or who. That way lay chaos. The Conseil du roi’s report recommended to the king, “Votre Majesté ne peut, trop tôt, condamner un exemple aussy dangereux de protection accordée à la désobéissance, dans une colonie où il y a 300 mille nègres

¹⁰⁴ Appel, May 20, 1777.

¹⁰⁵ Appel, May 20, 1777.

¹⁰⁶ Appel, May 20, 1777.

et autres gens de couleur contre vingt mille blancs.”¹⁰⁷ For them, the case was not really about Marie Victoire at all.

Yet centring Marie Victoire brings a different side of the story into focus. While Marie Victoire’s perspective is highly mediated in all the available sources, her actions and words suggest that under certain circumstances, either far away from or within the strictures of state control, some people of colour could put forth their own ideas about what freedom meant and could claim it for themselves. For her, freedom was a category of lived experience, not simply a legal status. Yet this informal means of accessing freedom enraged owners of the enslaved such as François Morisseau, who were reluctant to let any control they had over the enslaved slip away from them, especially in the face of what they interpreted as crown encroachment on their prerogatives. It also posed a hazard to royal authority and the growing French bureaucracy. Even more fundamentally, it threatened the twin towers of patriarchal and White supremacist authority. While crown and owners of the enslaved often clashed, they proved united in this: enslaved people did not get to determine the circumstances or conditions of their own emancipation, no matter what proof they provided. Thus, even while efforts to regulate the boundary between slavery and freedom led to ever higher standards of documentary evidence, sometimes even when people of colour met those standards, as did Marie Victoire, it did not matter. While freedom, at least sometimes, could be claimed, slavery could also be imposed.

¹⁰⁷ Appel, May 20, 1777.