

### (A) The slave laws

In each of the Caribbean territories where the system of slavery existed, there were slave laws to govern the lives of the slaves. The laws of the Spanish colonies were based on the thirteenth century code of laws known as the *Siete Partidas*. The French West Indies had, as the basis of their slave laws, the Code Noir promulgated in France in 1865. The British colonies did not have a set of laws drawn up by the metropolis (mother country), instead, each colony drew up its own set of laws.

Slave laws were deemed to be necessary for slavery to exist as an institution. The whites drew up these laws because of the following reasons: (i) They felt that laws were necessary to provide a legal basis for slavery. (ii) The whites realized that they were a vulnerable minority within the slave society and they were always fearful of revolts and other acts of slave defiance. As a result, they felt the need to codify the punishment that matched each offence. (iii) The slaves had constantly defied the whites who hoped that harsh laws would help to control the slaves and prevent offences such as running away, theft and rebellion. (iv) The whites expected that the laws would help to preserve public order and help them to maintain their supremacy within the society.

### Spanish Slave Laws

In the Spanish slave laws, the enslaved African was regarded as a person as well as property. The laws, therefore, offered him protection against unwarranted assault or punishment, or other forms of inhumane treatment by his master.

The Spanish recognized that freedom was the natural state of man and so the slaves had a right to seek their freedom. Included in the slave laws therefore, were provisions with respect to manumission. They included the following: (i) A slave master could lose his property in the slave (i.e. the slave could be freed) if it were proven that he had maltreated

Provisions of 18th century Spanish slave laws with respect to manumission

him. (ii) Slaves could be compulsorily manumitted for certain kinds of abuse, for example the violation or prostitution of a female slave by her owner. (iii) Audiencias were instructed to hear cases of slaves who claimed to be free, and to see that justice was done to them. (iv) When slaves of mixed blood were to be sold, their fathers, if willing, should be allowed to buy them so that they might be freed. (v) By the custom of *Coartacion*, slaves could buy their freedom in installments. The first price agreed upon was paid in installments, but it was final. The slave remained the property of the master until the last payment was made.

Provisions with respect to rights of slaves

Since the slave was regarded as a person, he had rights under the law, including the following: (i) A slave had the right to purchase his freedom with or without the consent of his owner by repaying his purchase price, if necessary, in installments. (ii) If a slave was treated inhumanely, he or she had the right to take a complaint to the courts (Audiencia). (iii) A slave had the right to be taught religion (i.e. to be baptized and instructed in the Christian faith). (iv) Plantation slaves had the right to be free from work on Sundays and Holy Days. (v) A slave had the right to marry with or without the consent of his owner. (vi) He had the right to be provided with food, clothing, shelter, and to be taken care of, by his master, in his old age.

### British Slave Laws

Slaves in the British colonies, unlike those in the Spanish colonies where they were seen as an inferior kind of subject, were a special kind of property. They were bought and sold as merchandise and became their owner's private property that could be sold for debts, mortgaged and disposed of in accordance with the laws of inheritance of real estate. No provision was made therefore, for their manumission and so, sometimes they tried to free themselves by running away.



**British laws with respect to manumission of slaves**

(i) The law penalized those who aided runaways whether by enabling them to support themselves away from their masters, or by aiding their flight directly. (ii) The law also sought to prevent the manumission of slaves unless the public was compensated beforehand against the possibility that the new freeman might become destitute. A tax was therefore placed on manumission. This means that before manumission, a deposit had to be paid by the slave, both to discourage manumission and to ensure that the slave did not become a burden on the society. In St. Vincent, for example, a £100 deposit was required and should the slave fall on hard times, he would be given, from this sum, a total of £4 each month. (iii) A slave could buy his freedom ONLY with the consent of his owner.

**Provisions with respect to rights of slaves**

As a special kind of property, enslaved Africans had very few rights. Those in existence were restricted to the following: (i) Food should be provided for slaves. A Montserrat regulation of 1693 stated that one acre of provisions should be cultivated for every eight slaves belonging to a plantation. (ii) Old and disabled slaves should not be abandoned by their owners. (iii) Clothing and shelter were to be provided for slaves. (iv) The willful killing, dismemberment and mutilation of slaves were forbidden.

**Differences between Spanish and British slave laws**

Some of the differences between the Spanish and British slave laws were: (i) The Spanish slave laws were based on the *Siete Partidas* that were drawn up by the crown. The English laws were drawn up by the slave masters and their friends in their capacity as members of the colonial legislature. (ii) Under the Spanish laws, the slaves were regarded as persons, a part of the family, but they were regarded solely as property, not a part of the family in the English laws. (iii) Slaves, according to the Spanish laws, were souls to be saved and therefore should be converted to the Roman Catholic faith. There was no concern about the soul of slaves in the English laws prior to the end of the 18th century. Spanish laws provided for religious education for slaves from the

16th century. (iv) In Spanish laws, slaves could marry and their families were not to be separated. There was no encouragement given to the preservation of families in English laws and members of a family could be sold separately. (v) Under the Spanish laws, slaves could purchase their freedom in installments (by the process of *Coartacion*). English laws, while allowing manumission, did not encourage it, and so tax had to be paid on manumission. (vi) English laws forbade slave evidence in court, especially against whites. In Spanish laws, there was the occasional provision for slave evidence in Spanish courts such as the *Audiencia*. (vii) English laws were directed especially towards maintaining public order so 'police' regulations were uppermost. Slaves could not bear arms, they were not allowed to ride horse, they could be arrested if they were found 'wandering' and they could be severely punished and/or mutilated for striking or insulting a white person. These laws gave the masters almost total power over the slaves. In contrast, a master who murdered his slave faced only a minor fine. The Spanish had more laws to benefit the slaves and to protect them against unwarranted assault or punishment by their masters. (viii) The Spanish laws made provision for officials to be appointed to ensure that the laws were obeyed. The British laws made no provision for supervision and protection of slaves was not provided for until the *Amelioration* measures of 1823.

**Reasons for differences between the Spanish and British slave laws**

The differences between the British and the Spanish slave laws were related to when, where and by whom these laws were made. Slavery had existed legally in Spain before the arrival of the Spanish in the New World. The *Siete Partidas* came into existence long before Spain had colonized her New World Empire. The reasons for the differences between the British and the Spanish laws, therefore, include the following: (i) The Spanish laws were not framed to deal with the West Indian situation, but were incorporated into the laws of the Spanish colonies. Slavery in Spain was a less severe



institution than was plantation slavery in the New World, and so the *Siete Partidas* were less severe than the British slave laws. (ii) In British colonies, the laws were made by the assemblies of white settlers in each colony. The basis of the slave laws was fear. As the number of slaves increased, the fear of the whites grew and so the severity of the laws increased. (iii) The Spanish regarded slaves as persons (*persona*), often as part of the family, while the British viewed slaves as property (chattel). (iv) During the early years of Spanish colonization in the New World, whites outnumbered (or were equal in number to) the slaves, therefore there was less fear and repression than in the British colonies. (v) Britain had been freed of slavery and serfdom earlier than Spain and so she had no laws permitting and governing slavery at home. Spain had a longer tradition of dealing with slaves and so there was less fear of and severity towards them.

There were few similarities between both sets of laws. They included: (a) The emphasis which they both placed on (i) penalties for slaves (ii) rights of owners (b) the few beneficent clauses and the police clauses which they provided. The similarities relate to the fact that both the British and the Spanish law makers (i) believed in the legality of the system of slavery (ii) felt the need to instill fear in the minds of the slaves in order to control them (iii) believed that slavery was necessary to provide for the social and economic needs of the colonies.

### ■ French Slave Laws (Code Noir)

The French slave laws, the *Code Noir*, were similar to the Spanish slave laws in that (i) they were drawn up by the metropolis (Mother Country), France. They were laws of the Crown and they were applicable throughout all the overseas colonies of the Crown. (ii) They reflected the strong influence of the Roman Catholic Church on the government. Both provided for the conversion of the slaves to the Roman Catholic faith.

#### The Code Noir and British slave laws

The French, like the British, had no law permitting and governing slavery in their own country. The Code Noir was therefore drawn up specifically to meet the needs of French colonial slave societies. The laws were based on what was thought to be desirable in the Caribbean slave-plantation communities. They were drawn up for the purpose of dealing with problems already posed by the existence and acceptance of slavery in the West Indian colonies.

#### Reasons French Caribbean needed code drawn up by the Mother Country

The French government had the power to make laws for its West Indian colonies and so (i) it drafted the Code Noir so that they would all have a unified set of laws. (ii) The slave laws were seen as essential for the continued maintenance of slavery. They were necessary to provide legal guidelines to govern slavery and the relationships among social groups in the colonies. (iii) They were needed to control the slaves in the French West Indian colonies, i.e. to discourage slave resistance or because of slave resistance. (iv) It was necessary for the Mother Country to draft these laws because, left to themselves, the French West Indian planters might have drawn up laws devoid of beneficent clauses.

#### Reasons British Caribbean did not have slave code drawn up by the Mother Country

The British colonies, unlike the Spanish and French colonies, had no unified set of laws drawn up by the Crown because: (i) Each British colony had its own lawmaking body and so it was the colonies' responsibility to make their own laws. (ii) The British Government's policy was more pro-planter, slaves were considered as private property and so there was no desire on the part of the government to dictate how planters should handle their property. (iii) The official Church of England had less influence on slave owners in the British colonies than the Roman Catholic Church in the Spanish and French colonies. It was the policy of the church not to interfere with slavery.

#### Provisions of Code Noir with respect to rights of slaves

The Code Noir gave slaves certain rights including the following: Slaves had the right (i) to be baptized and instructed in the Catholic religion (ii) to observe Sundays and Holy Days (i.e. to be free from work on Sundays and

#### Similarities between British and Spanish slave laws

#### Reasons for similarities

#### Similarities between the Code Noir and Siete Partidas



on Holy days of the church) (iii) to be buried in holy ground (iv) to marry with the consent of the owner (v) to be provided with food, clothing (vi) to be cared for by their masters if/when they were disabled by sickness, old age, or otherwise (vii) not to be separated from their families when they were sold (viii) to appeal to the legal official known as the *Procureur general* (attorney general) and complain if a master failed to subsist them or if he treated them cruelly.

Procedures laid down for the manumission of the slaves included: (i) Masters of twenty years and over could manumit their slaves. (ii) If a freeman had children by a slave concubine and later married the woman, both she and the children became free. (iii) Once free, the former slave was to be treated as a freeborn subject of the king, entitled to the same rights as other subjects, but he had to respect his previous master, his master's widow and children.

In theory, the Spanish slave laws were more humane and they gave slaves in the Spanish colonies far more protection than the British police laws or the French Code Noir. However, as the sugar plantation system developed and slavery was extended in the late 18th to the 19th century throughout the Caribbean, slavery became harsher. Evidence which suggests that the system was no milder in the Spanish territories includes the following: (i) In a humane slave code which was drafted for the Spanish colonies in 1789, the Spanish government attempted to provide for the amelioration of conditions in a growing slave population. This code was, however, strongly resisted and the planters in Cuba and Central America successfully petitioned for it to be withdrawn. Their response was similar to the resistance of the British planters against the 1823 amelioration proposals. (ii) The protective clauses of the *Siete Partidas* which were more numerous than those of the British slave laws did not prevent the existence of large numbers of slaves who were underfed, overworked and slaves who were badly treated. (iii) The offi-

Provisions with respect to manumission of slaves

West Indian slave laws in practice

cial who were appointed to look after the legal protection of the slaves in Cuba, for example, were often subservient to the slave-owners and in cases when they showed more independence in their efforts to provide effective protection for the slaves they were defeated by local opinion. This was similar to the situation in the British colonies where the planters operated and controlled the legal system and so had the final say in how the slaves were treated. (iv) Even the provisions of the 1789 Spanish code indicated that abuses were taking place in the system; for example, it included provisions regulating the work of the slaves, their housing and medical care, their maintenance in old age and their punishment. It also provided for the detection and punishment of abuses by the colonists in the management of the slaves. The British amelioration proposals of 1823 made provision for the regulation of abuses against slaves, for example, it limited the amount/kind of punishment that could be given to slaves. (v) Frequent reports of slave uprisings in the Spanish territories in the late 18th to the 19th century, for example in Cuba after 1840, seem to indicate that slaves were repressed and were not contented. Slave revolts were a continuous feature of British West Indian slave societies and were greatly feared and always put down with great severity. They were only brought to an end after the slaves were emancipated.

### Other Forms of Slave Control

Although many British West Indian planters were not enthusiastic about Christianizing their slaves, and many of them made life difficult for the non-conformist missionaries who sought to work among the slaves, some of these planters, particularly in smaller islands like Antigua, were willing to grant the missionaries permission to enter their plantations. Some planters welcomed the work of the missionaries in making the slaves more loyal. The Christian principles that were taught by the missionaries might have helped to

(B) The use of Christian teachings