
Haiti, Free Soil, and Antislavery in the Revolutionary Atlantic

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IN THE LATE EIGHTEENTH CENTURY, the French colony of Saint-Domingue was the richest colony in the world. Set in the Caribbean Sea, a short sail from some of the principal American colonies of Britain and Spain, in the 1780s it produced about half of all the sugar and coffee consumed in Europe and the Americas. It was, in the nomenclature of the time, the “Pearl of the Antilles,” the “Eden of the Western World.” It was there, in late August 1791, that the colony’s enslaved rose up, eventually declaring war against the regime of slavery at its seat of most extreme and opulent power. Within a month, the rebel slaves numbered in the tens of thousands, and the property destroyed amounted to more than a thousand sugar and coffee farms. With this event—the largest and best-coordinated slave rebellion the world had ever seen—the enslaved of Saint-Domingue forced the issue of slavery upon the French Revolution and the world. By August 1793, colonial authorities began decreeing abolition, and in February 1794, the National Convention in Paris ended slavery in France’s colonies, in a sense ratifying what enslaved rebels had already made real on the ground in many parts of Saint-Domingue. A decade later, those same rebels declared themselves free not only from slavery, but also from French rule. On January 1, 1804, the independent nation of Haiti was proclaimed—the second independent state in the Western Hemisphere, and the only one ever founded by former slaves and without slavery.¹

The Haitian Revolution—the name by which we now know these events—commanded the attention of everyone in the region and beyond. But surely few followed

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¹ On the Haitian Revolution, see C. L. R. James, *The Black Jacobins: Toussaint L’Ouverture and the San Domingo Revolution* (New York, 1963); David Patrick Geggus, *Haitian Revolutionary Studies* (Bloomington, Ind., 2002); Laurent Dubois, *Avengers of the New World: The Story of the Haitian Revolution* (Cambridge, 2004); Carolyn E. Fick, *The Making of Haiti: The Saint Domingue Revolution from Below* (Knoxville, Tenn., 1991); and Jeremy D. Popkin, *You Are All Free: The Haitian Revolution and the Abolition of Slavery* (New York, 2010).

the situation as closely as enslaved people, who apprehended that the world's most profitable and powerful system of slavery had been destroyed by its own slaves. Masters, meanwhile, heard about men much like themselves whose lives and fortunes had just been shattered by the actions of enslaved men and women like their own. Authorities in neighboring slave societies responded quickly with measures such as bans on the entry of so-called French blacks, limits on the slave trade, and surveillance of slaves in their own territory.

Whatever hopes and fears the Haitian Revolution generated across the Atlantic world, its impact on slave emancipation beyond Haiti's borders was not at all clear. In the French Empire, the emancipation of 1794 had been rescinded, and by the time of Haitian independence in 1804, slavery and the slave trade were thriving again in Guadeloupe and Martinique. While organized and popular opposition to slavery gained momentum in England, perhaps some three-quarters of a million people still lived enslaved in its colonies. In the United States, abolitionism became increasingly popular in the north, but in the south slavery remained entrenched, its advocates bent on expanding it to new American territories. In the Spanish world, meanwhile, the model of plantation slavery pioneered in the French and British Caribbean was gaining ground. In Cuba, in particular, planters strove to supplant Saint-Domingue in the world market, and the rapid expansion of slavery there turned the Spanish island into the world's largest producer of sugar and one of the greatest consumers of Africans in the nineteenth-century world.

Even with abolitionism on the rise, then, at the moment of Haiti's founding, slavery was still on the march.² The spectacular example of liberation remained localized there, and Haiti's first governments announced and continually reaffirmed that they were willing to accept that state of affairs. They were fully committed to maintaining emancipation permanently in their territory, but they publicly renounced all ambition of taking that emancipation to any of the slave societies that surrounded their new country.³ Outside of Haiti, therefore, the prospects for legal freedom from slavery in any living person's lifetime remained dim. How, then, might we understand the effects of this new "empire of liberty" in a region where the Haitian example was well known, yet where colonial slavery also continued to flourish?⁴

² Dale Tomich's notion of the "second slavery" is particularly useful here; see *Through the Prism of Slavery: Labor, Capital, and World Economy* (Oxford, 2004), esp. chaps. 3, 5, and 6. For an application of this concept in the Cuban case, see Ada Ferrer, "Cuban Slavery and Atlantic Antislavery," *Review: A Journal of the Fernand Braudel Center* 31, no. 3 (2008): 267–295. The best estimate for the number of slaves in the British Caribbean at the time is 775,000 in 1807, from B. W. Higman, *Slave Populations of the British Caribbean, 1807–1834* (Kingston, Jamaica, 1995), 72.

³ One exception was the public declaration of the indivisibility of the entire territory of the island of Hispaniola, starting with Toussaint's colonial constitution and continuing into the early national constitutions. This declaration presupposed the absorption of the Spanish (and for some period French) part of the island into the western state. Although the territorial indivisibility was in part a strategic and tactical maneuver against any possible re-enslavement or recolonization campaign, it was also couched in terms of a moral fraternity with residents from the east. Less public examples of potential violations of the non-intervention clause include Henri Christophe's aid to anticolonial rebels in Spanish Santo Domingo in 1810 and Alexandre Pétion's substantial aid to Latin American independence leaders. On the former, see Anne Eller, "'All would be equal in the effort': Santo Domingo's 'Italian Revolution,' Independence, and Haiti, 1809–1822," *Journal of Early American History* 1, no. 2 (2011): 105–141.

⁴ The phrase "empire of liberty" was used in the first paragraph of the January 1, 1804, Declaration of Independence: "We must, with one last act of national authority, forever assure the empire of liberty

Historians have begun to explore seriously the extent to which the Haitian Revolution influenced the ascendance of antislavery in the early-nineteenth-century world. Some have assessed the impact of the revolution on European and American abolitionism, examining, for example, the ways in which Haiti was used to illustrate arguments about the dangers of maintaining slavery or about the innate capacity of black men for freedom and civilization. Others have focused on the question of whether the Haitian example inspired movements of resistance and rebellion for black and brown slaves and free people across the hemisphere. In both sets of discussions, historians have faced off, some asserting, others playing down the impact of the Haitian Revolution on the global contests over slavery.⁵ Yet the relationship between Haiti and Atlantic freedom, if in part a story about the power of Haiti's example, was also centrally a story about a Haitian state that developed and projected its own brand of antislavery in the world, about a Haitian government that thought actively about and sometimes explicitly addressed itself to non-Haitian blacks in the hemisphere.

To the important work that has considered the significance of the Haitian Revolution of 1791–1804 for histories of global antislavery, the Age of Revolution, or modern political thought, therefore, we must add an exploration of the import of *post-revolutionary* Haiti, which, as the enslaved of the region well understood, continually tried to intervene in broad Atlantic debates about rights, freedom, citizenship, and sovereignty. In an era in which these concepts were being radically transformed, the Haitian state insisted that its was a critical and necessary voice.⁶ Thus despite the Haitian government's promise of non-intervention in the affairs of its neighbors, the triumph of the Haitian Revolution echoed well beyond Haiti. Indeed, it transformed the very landscape (and seascape) of freedom in the Atlantic world. In that transformation, the post-revolutionary Haitian state played a fundamental role. The laws it enacted and the policies it pursued profoundly shaped the politics, meaning, and character of antislavery at a critical moment in its global history.

An international legal dispute that emerged in 1817 provides an important example of the vital role played by the Haitian state. In January 1817, seven enslaved men from Jamaica commandeered the vessel on which they were serving and sailed

in the country of our birth; we must take any hope of re-enslaving us away from the inhuman government that for so long kept us in the most humiliating torpor. In the end we must live independent or die." Translation from David Armitage, *The Declaration of Independence: A Global History* (Cambridge, 2007), 193.

⁵ Some of these arguments about the impact (or non-impact) of the Haitian Revolution on abolitionism and slave rebellion are distilled in David Brion Davis, "The Impact of the French and Haitian Revolutions," in David P. Geggus, ed., *The Impact of the Haitian Revolution in the Atlantic World* (Columbia, S.C., 2001), 3–9; Seymour Drescher, "The Limits of Example," *ibid.*, 10–14; and Robin Blackburn, "The Force of Example," *ibid.*, 15–20. See also Geggus, "The Caribbean in the Age of Revolution," in David Armitage and Sanjay Subrahmanyam, eds., *The Age of Revolutions in Global Context, c. 1760–1840* (New York, 2010), 83–100.

⁶ Especially important here are Laurent Dubois's call to consider the intellectual history of Enlightenment and revolution in a way that incorporates both the Caribbean and the enslaved, and Deborah Jenson's work on Jean-Jacques Dessalines (who ruled Haiti from 1804 until his assassination in 1806) as a political author and producer of postcolonial theory. See Dubois, "An Enslaved Enlightenment: Rethinking the Intellectual History of the French Atlantic," *Social History* 31, no. 1 (February 2006): 1–14; and Jenson, *Beyond the Slave Narrative: Politics, Sex, and Manuscripts in the Haitian Revolution* (Liverpool, 2011).

to southern Haiti, where they found—as they had expected to—legal protection, freedom from slavery, and access to Haitian citizenship. Alexandre Pétion, president of the Republic of Haiti, defended the right of the men to remain there, refusing—even when challenged by their master and British authorities—to return them to slavery.⁷ He grounded his refusal on Article 44 of the Haitian constitution of 1816, which stated that

All Africans and Indians, and the descendants of their blood, born in the colonies or in foreign countries, who come to reside in the Republic will be recognized as Haitians, but will enjoy the right of citizenship only after one year of residence.⁸

Haiti, argued Pétion, was a land where no one could be enslaved, and where arrival in and of itself conferred freedom and eventually citizenship. At stake, therefore, were not only the status and the future of the seven men in question, but also Haiti's role in international struggles to define the boundaries of slavery and freedom, citizenship and rights.

The 1817 case, and the 1816 constitution on which it was based, provide fresh insight into the intellectual and political history of global antislavery and of post-independent Haiti's robust intervention in that history. Haiti's was a contribution that drew on—and in many cases substantially transformed—multiple and heterodox sources. Some of these sources were of recent vintage and were linked to notions of liberty and rights emerging on both sides of the Atlantic; others reworked longer-standing, Old Regime concepts, from Catholic sanctuary to European free soil. Still others appear to have represented a pragmatic response to specific developments on the ground, as sailors, slaves, migrants, foreign insurgents, and even abolitionists sometimes pushed the Haitian state to act more expansively on the freedom it represented, offering at key moments an opportunity for its leaders to project Haitian freedom outside its borders. Still, Haiti's intervention in global antislavery, as the

⁷ The documentation on the case appears in the National Archives of Britain [hereafter TNA], Colonial Office Papers [hereafter CO], 137/145. Some is printed in Jamaica Assembly, *A Report of a Committee of the Honourable House of Assembly of Jamaica Presented to the House, December 10, 1817* (London, 1818), which includes the testimony of James McKowen, taken in Port-Royal before the committee on November 19, 1817. Some documentation is also reprinted in Richard B. Sheridan, "From Jamaican Slavery to Haitian Freedom: The Case of the Black Crew of the Pilot Boat, *Deep Nine*," *Journal of Negro History* 67, no. 4 (Winter 1982): 328–339. The manuscript sources identify the master as McKowen; printed sources refer to him as M'Kewan. I have used McKowen throughout. Some of the manuscript sources refer to two slaves named James. I believe the second James is the same person as Jem, so named in the printed sources.

⁸ The 1816 constitution represented a revision to the constitution of 1806, generally also attributed to Pétion. The change in the 1816 version that is most often discussed is the new provision that made Pétion president for life. There is a growing body of scholarship on the early Haitian constitutions. See Claude Moïse, *Constitutions et luttes de pouvoir en Haïti (1804–1987)*, 2 vols. (Montreal, 1988–1990); Michel Hector and Laënnec Hurbon, eds., *Genèse de l'État haïtien, 1804–1859* (Paris, 2009); Sibylle Fischer, *Modernity Disavowed: Haiti and the Cultures of Slavery in the Age of Revolution* (Durham, N.C., 2004); Julia Gaffield, "Complexities of Imagining Haiti: A Study of National Constitutions, 1801–1807," *Journal of Social History* 41, no. 1 (Fall 2007): 81–103; and David Nicholls, *From Dessalines to Duvalier: Race, Colour and National Independence in Haïti* (New Brunswick, N.J., 1979). The original texts of most of the early constitutions appear in Louis Joseph Janvier, *Les constitutions d'Haïti (1801–1885)* (Paris, 1886). Some also appear in Constitutions of the World Online, http://www.modern-constitutions.de/nbu.php?page_id=cf2bf1a9ce737906a2cc483486798452. In French, Article 44 reads: "Tout africain, indien et ceux issus de leur sang, nés des colonies ou pays étrangers, qui viendraient résider dans la République, seront reconnus haïtiens, mais ne jouiront des droits de citoyen qu'après une année de résidence"; http://www.modern-constitutions.de/nbu.php?page_id=02a1b5a86ff139471c0b1c57f23ac196&viewmode=pages&show_doc=HT-00-1816-06-02-fr&position=8.

seven Jamaican sailors may themselves have come to understand, was rarely a straightforward tale of freedom and rights in ascent—something, of course, that can also be said about the contributions of other, better-known and more highly touted antislaveries of Europe and North America.

IN JANUARY 1817, SEVEN ENSLAVED MEN and boys from Jamaica—identified by name as Dublin, Kingston, Archy, Quashie, Robert, James, and Jem, and held as property by one James McKowen—were serving aboard the schooner *Deep Nine*. The men were accustomed to work on the seas, serving as pilots steering ships in and out of local harbors. At the beginning of the *Deep Nine*'s journey, there had been other slaves on board, but the vessel had been cruising for some time, and some of the pilot slaves had been transferred to other ships to guide them into port, so that at the time of the events in question, only the slave owner's brother, Robert McKowen, and the seven black sailors remained aboard. With the vessel low on wood and water, McKowen decided to stop for supplies at Rocky Point, Saint Thomas, on Jamaica's southeastern shore. After McKowen disembarked and the men went off on a routine search for provisions, Dublin and his shipmates took the vessel and set sail for the country of Haiti.

At the time of their escape, there were, in fact, two Haitis: the republic, headed by Alexandre Pétion, in the south, and a kingdom, ruled by Henri Christophe, in the north. Both leaders had risen to prominence during the course of the Haitian Revolution, and both were committed to a Haitian nation in which legal slavery and European colonialism would never again exist. Yet in 1807, as a result of disputes over the form and leadership of the government, the young state had split in two. The resulting entities differed in two important respects. The north, which became a kingdom in 1811, retained large-scale landholdings, which were managed by military officers and produced sugar with the "attached" labor of former slaves. In the south, which was organized as a republic, the government had divided the large estates and carried out an agrarian reform, dismantling the old plantation system and distributing almost 100,000 hectares of land, mostly in modest plots of 25 to 45 hectares. The differences between the two societies, however, were not absolute. Renting arrangements in the north provided some maneuvering room for former slaves; while in the south, much of the land distributed went to the military, with higher-ranking officers receiving larger plots.⁹

Still, it was to Pétion's south that the Jamaican men escaped. One reason for that choice may have been simple convenience: Jamaica was closer to the ports of the south than those of the north, and trade—both licit and illicit—had long bound Haiti's southern peninsula to the Jamaican coast. But there was likely some informed political calculation involved as well. In the north, where the large plantations survived and where the law, managers, and soldiers tried to limit the mobility of workers, local people were known to escape into Spanish Santo Domingo, where the land was not dominated by plantations. Of the south, meanwhile, at least one of the Jamaican sailors testified that they had heard other kinds of stories—first and foremost about

⁹ Robert K. Lacerte, "The Evolution of Land and Labor in the Haitian Revolution, 1791–1820," *The Americas* 34, no. 4 (April 1978): 449–459.

freedom, but also about the protection offered by the state and the eventual possibility of obtaining land and earning military ranks there. So it was with the south that they cast their lot.¹⁰

A few days after their escape, the men's legal owner, James McKowen, followed them to Haiti, confident that he would be able to retrieve the vessel and the seven men he claimed as his property. McKowen searched from town to town—Cap Tiburon, Les Cayes, Petite Rivière, Trou-Bonbon, Jérémie—to no avail. Finally, hoping for a more satisfactory result, he traveled to the southern capital of Port-au-Prince, where he met face to face with President Pétion. But the result was no different, and McKowen left the meeting empty-handed.

At the heart of Pétion's refusal to hand over the sailors was his invocation of Haitian law, which he said rendered him powerless to deliver them back into slavery. Specifically, he invoked the new Haitian constitution, which had been published to great fanfare in the final days of September 1816.¹¹ The sailors, he said, were "recognized to be Haitians by the 44th Article of the Constitution of the Republic from the moment they set foot on its territory."¹²

While the 1816 constitution had been drafted as a revision to the 1806 constitution, Article 44, granting protection and citizenship to non-white foreigners arriving in Haiti, was newly added, not having appeared in any form in the 1806 charter. The confrontation over the enslaved Jamaican sailors took place approximately three months after the publication of the new constitution. This was likely the first time that the new law of the land was explicitly applied and challenged. As Rear Admiral J. E. Douglas of the British navy, to whom McKowen had appealed for aid, admitted to legal counsel, the case was "altogether of a novel character."¹³ That fact made it hard for the British proponents of the men's enslavement to know how to act or argue in response. At first, McKowen simply emphasized that the men in question were his property. But Pétion countered that by virtue of their arrival in Haiti, the men were now Haitian. The law, he said, was clear: slavery could never exist in Haiti, so the men could not—by law—be slaves. Pétion thus rendered moot the question of their legal status before their Haitian landing.

Perhaps realizing the futility of an appeal based on property rights, McKowen then stressed that the men had acted criminally, stealing his vessel and the items aboard it. The proper response, he argued, was to bring them before a British court as "pirates." Here he seemed to be improvising, for even the British to whom he

¹⁰ The stories the sailors heard and shared about the south will be discussed later in the article. For more on land, labor, and the distinctions and commonalities between the north and south, see Laurent Dubois, *Haiti: The Aftershocks of History* (New York, 2012), chap. 2. At roughly the same time that the Jamaican sailors escaped to the south, Christophe's government in the north was involved in a dispute with Spain over Haitian workers who had escaped from northern plantations to nearby Santo Domingo. Archivo General de Indias [hereafter AGI], Estado, legajo [leg.] 12, expediente [exp.] 53. For more on Haitian escapees to Santo Domingo, see also Eller, "'All would be equal in the effort,'" 124–125. The 1816 constitution and Article 44 survived the reunification with the north in 1821 and with Santo Domingo in 1822. The subsequent Haitian constitution of 1843 had a less powerful version of 1816's Article 44. Article 7 in 1843 stated that all Africans and Indians and their descendants were able to become Haitian, and it added that the specific details of naturalization would be fixed by laws.

¹¹ On the publication of the constitution, see Alexis Beaubrun Ardouin, *Etudes sur l'histoire d'Haïti*, 11 vols. (1865; repr., Port-au-Prince, 2005), 8: 51.

¹² Pétion to McKowen, January 30, 1817, TNA, CO, 137/145.

¹³ Rear Admiral J. E. Douglas to Wilson Crocker, Esq., February 15, 1817, *ibid.*

directed his appeal judged that the men could not be claimed or tried as pirates “on account of their being slaves.” Faced with a new kind of danger to their authority, the British subjects and officials on the ground seemed to be scrambling to find the proper language with which to confront it. When nothing persuaded Pétion that the men should be returned, McKowen turned to questions of law and diplomacy: the new constitutional article, he argued, was ill-advised and represented a serious threat to maritime trade and thus to the larger international order. “The Negroes in every drogger or small plantain boat belonging to Jamaica,” he said, would avail themselves of Haitian coasts, which would become “a place of protection and refuge . . . for the encouragement of slaves to run off with the shipping.” He threatened action from higher up: the British navy would be forced to police Haitian coasts, the Jamaican governor might have to intercede, and so on.¹⁴

Whether or not the threat of British action was real, other observers shared McKowen’s sense that the new constitutional law posed a threat to international trade and diplomacy. Since much of the maritime commerce in the Caribbean Sea involved enslaved people, either as crew or as cargo, the possibilities made real in the new constitution were not lost on the men who made their living off the labor of black sailors or by transporting black captives. Just days after the publication of Article 44, privateers were warning each other not to come too close to Haiti’s coasts with any human cargo, for “General Pétion will confiscate the Africans in the interest of their liberty, to increase his population, and to develop agriculture in his territory.”¹⁵

In northern Haiti, where King Christophe was deeply hostile to Pétion’s southern republic, the political class also saw the new law as a dangerous source of instability. Baron de Vastey, Christophe’s chief adviser, who in 1814 had announced that Haitian independence would be the precursor of a worldwide black movement for freedom, deemed Article 44 to be contrary to the Haitian Declaration of Independence and the 1806 constitution, both of which had promised non-intervention in the affairs of neighboring colonies. Vastey argued that the new law made “a direct appeal to the black and coloured population of the colonies or foreign countries, to come and settle themselves in the Republic, [offering them] an asylum in the Republic which is sacred and inviolable, a measure which tends directly to disturb the peace and internal government of those foreign colonies or countries.”¹⁶ Article 44, he argued, represented a blatant and unconstitutional form of interference in the slave regimes of the region.

McKowen, the privateers, and observers in the north were clearly motivated by

¹⁴ McKowen to Pétion, January 28, 1817, TNA, CO, 137/145.

¹⁵ Archivo Nacional de Cuba [hereafter ANC], Asuntos Políticos [hereafter AP], leg. 124, exp. 66. On the privateers, see also Paul Verna, *Pétion y Bolívar: Cuarenta años (1790–1830) de relaciones haitiano-venezolanas y su aporte a la emancipación de Hispanoamérica* (Caracas, 1969), 337–338; and José Luciano Franco, *La política continental americana de España en Cuba* (Havana, 1964), 141–142.

¹⁶ Baron de Vastey, *An Essay on the Causes of the Revolution and Civil Wars of Hayti* (Exeter, 1823), 208–209. See also Nicholls, *From Dessalines to Duvalier*, 43–47. French authorities negotiating with Pétion regarding recognition also singled out Article 44 for criticism, discussing it as one of several articles in the constitution that established a “distinction of colour which philanthropy has been labouring for upwards of half a century to destroy.” See Viscount de Fontagnes, Esmangart, Commissioners to the King (France), to Alexandre Pétion, October 30, 1816, in Vastey, *An Essay on the Causes of the Revolution and Civil Wars of Hayti*, Appendix E, no. 12.

different impulses, yet they all seemed to agree that Pétion's new policy made Haiti a safe haven for black and brown people who could manage to set foot on its territory. The policy did not represent the literal exportation of revolution; it did not purport to send revolutionary agents to instigate slave rebellions in neighboring colonies, something that every Haitian foundational document since the Haitian Declaration of Independence had shunned. Article 5 of Pétion's 1816 constitution, for instance, stated that "the Republic of Haiti will never initiate a project designed to conquer or perturb the internal peace and order of foreign States and islands." But Article 44 did elevate Haiti as a tangible source of freedom and citizenship for any black person—no matter his or her location or status—who could make it to Haitian territory. Here, then, was a potentially forceful and expansive antislavery position, and everyone involved seemed to recognize it as such.

But what of Pétion himself? To what extent was he seeking to expand and project the antislavery power of the new Haitian Republic, the non-interventionist text of Article 5 notwithstanding? The 1817 case strongly suggests that he saw the constitution and his application of specific provisions such as Article 44 as acts in a larger, universal drama about slavery and freedom, and about Haiti's international role in accelerating and shaping the passage between the two.

WHILE THE INTELLECTUAL AND POLITICAL position of the Haitian state in 1816–1817 was groundbreaking, it clearly involved a reworking of older, more traditional notions of freedom. At its most basic level, Pétion's argument was that by virtue of the men's color and their arrival in Haiti, Article 44 made them Haitian and therefore free. In effect, Article 44 proclaimed Haiti as legal free soil.¹⁷

The notion of free soil, or what Sue Peabody has designated "the freedom principle," predated the debates of the Age of Revolution. Although an Old Regime concept, it provides a useful prism through which to think about the Haitian state's participation in revolutionary discourses about slavery, freedom, and rights. The freedom principle—long, if fitfully, recognized in various European legal systems—held that "simply setting foot on a particular territory was enough to confer freedom upon a slave."¹⁸ In metropolitan France and England, it may have represented a juridical "extension to the countryside of a principle formulated by medieval communes whereby the 'free air' of cities was declared incompatible with bondage."¹⁹ And as early as the sixteenth century, the concept was upheld in multiple legal cases,

¹⁷ Important work on the notion of free soil has not examined the case of Haiti as an important and divergent example of the principle. Seymour Drescher's important book *Abolition: A History of Slavery and Antislavery* (New York, 2009), for example, argues that the notion of free soil was a central factor in the rise of abolitionism. Yet he argues that Haiti had a minimal impact on its progress (see chap. 6), and at one point he asserts that "by the beginning of the second quarter of the nineteenth century, 'free soil' no longer stopped at the Atlantic edge of Europe" (245)—a formulation that fails to acknowledge the potent combination of antislavery and sovereignty that Haiti represented and projected externally after 1804 and clearly in 1816.

¹⁸ Sue Peabody and Keila Grinberg, *Slavery, Freedom, and the Law in the Atlantic World: A Brief History with Documents* (Boston, 2007), 3. See also *Free Soil in the Atlantic World*, Special Issue, *Slavery and Abolition* 32, no. 3 (September 2011), edited by Peabody and Grinberg; and Peabody's pioneering book *There Are No Slaves in France: The Political Culture of Race and Slavery in the Ancien Régime* (New York, 1996).

¹⁹ Drescher, *Abolition*, 23.

even if not all slaves who based their appeals for freedom on it emerged victorious. Indeed, the legal notion of free soil generally brooked substantial exceptions. For example, the principle was not applied to captured Muslim slaves or within either country's overseas colonies. Only metropolitan soil could confer freedom, and as chattel slavery expanded in the colonial world, limits to the freedom principle were absorbed into metropolitan law itself. Thus, the antislavery promise of the French free-soil provisions of 1759 was severely narrowed by a 1777 law that dictated that all non-whites arriving in France would be quarantined and shipped back to their colonies of origin. During the French Revolution, the National Assembly issued a proclamation on September 28, 1791, the first article of which proclaimed that "every individual, immediately on entering France, is free." As Peabody has remarked, the proclamation inscribed free soil officially as French law rather than informal maxim. In 1802, however, Napoleon reversed the policy by barring all blacks, mulattos, and people of color from entering France. That ban was reiterated in 1806 and 1817.²⁰ Thus Pétion's offer of freedom and Haitian citizenship to brown and black people arriving in Haiti was the precise inverse of prevailing French law at the time. Moreover, because the land under Pétion's rule sat in the middle of the Caribbean Sea surrounded by slave societies and ships carrying black captives, to declare the Haitian republic as free soil was to put freedom within the physical reach of all manner of enslaved persons.

Could Pétion have had free-soil precedents in mind when he wrote Article 44? Several lines of analysis suggest a provisional answer of yes. First, the French tradition and legal conflicts over the freedom principle were well known in the colonies. Pétion himself had spent time in the French port of Bordeaux, which had an early history as a "free city." There—before the heyday of the Atlantic slave trade—boatloads of captives had occasionally been freed on arrival. Even by the time of Pétion's sojourn there, well after the city had established itself as a major slave-trading port, "local pride in the free air tradition" remained strong. Yet legal suits for freedom on that basis were also much less likely to succeed. While almost 250 individuals successfully secured their freedom in the Admiralty Court in Paris between the 1730s and the 1790s, provincial courts in port towns such as Nantes and Bordeaux often expelled petitioners, sending them back to their colonies of origin, Saint-Domingue included. Conflicts over the meaning and boundaries of French free soil—from revolutionary proclamations of free soil to expulsions founded on its reversal—were thus known to people such as Pétion in colonial Saint-Domingue.²¹

In the Caribbean itself, many were familiar with another kind of arrival that legally conferred freedom: Catholic sanctuary. The Spanish government regularly granted freedom, protection, and asylum to foreign fugitive slaves who were willing

²⁰ See Peabody and Grinberg, *Slavery, Freedom, and the Law in the Atlantic World*, 6–7, 68, 179; Sue Peabody, "Slavery, Freedom, Statehood and the Law in the Atlantic World," in Charlotte Wallin and Daniel Silander, eds., *Democracy and Culture in the Transatlantic World: Third Interdisciplinary Conference, October 2004* (Maastricht, 2004), 233–240; and Jennifer Heuer, "One Drop Rule in Reverse? Interracial Marriages in Napoleonic and Restoration France," *Law and History Review* 27, no. 3 (Fall 2009): 515–548, esp. 539–541.

²¹ Peabody, "There Are No Slaves in France," 6–7, 12, 29, 47, 50–52, 55–56. The figure on the number of victorious freedom suits comes from Peabody's table on p. 55. On Pétion and Bordeaux, see Susan Buck-Morss, *Hegel, Haiti, and Universal History* (Pittsburgh, 2009), 63–65; and Robin Blackburn, *The American Crucible: Slavery, Emancipation, and Human Rights* (New York, 2011), 185–186.

to embrace Catholicism. The practice persisted until after the start of the French Revolution and served as an inducement for an unknown number of enslaved people, particularly in British, U.S., Dutch, and Danish territories, who sought sanctuary and freedom in Spanish Cuba, Puerto Rico, Florida, Trinidad, and Tierra Firme. Even French authorities complained that enslaved people—already “Catholic”—were taking advantage of the policy to escape to Spanish territory. Before the Spanish sanctuary and manumission policy was abolished in 1790 in response to disorder in France and its colonies, enslaved people in Jamaica often stole canoes and other vessels in order to make quick sea journeys to freedom in Cuba.²² After Haitian independence, and especially after the constitution of 1816, Haiti represented a new and radically different sanctuary for maritime maroons of the Caribbean: one where freedom and protection came not from king and Christ but from the antislavery constitution of an independent black state.

While French, as well as Spanish, precedents may have informed Pétion’s thinking on legal sources of freedom from enslavement, it is clear that in arguing against a Jamaican slave master, he was also making an explicit connection to English law, and specifically to the legal principles of both asylum and free soil. In a letter to Rear Admiral Douglas defending his decision not to return the Jamaican sailors, Pétion invoked the right of asylum recognized by England and also included for the first time in the Haitian constitution of 1816: “There is no doubt, Sir, but the departure of a subject of one government to another places him under the jurisdiction of the one which he has adopted, and, once under that protection, he is no longer amenable to the government he has abandoned. England herself offers an example in the right of asylum.” From asylum, Pétion moved effortlessly to the freedom principle. Here Haiti’s president seemed well aware that English law, since the widely publicized Somerset case of 1772, had effectively abolished slavery on English soil. The case, which famously argued that slavery could exist only if it was established by positive law, was well known outside of England, in part because by the early nineteenth century it had become a staple of antislavery discourse.²³ Thus Pétion wrote astutely that “if the persons claimed by Messrs. James and Robert McKowen had been able to set their feet in the territory of England, there, where no slavery exists, certainly [McKowen’s] claim would not have been admitted.”²⁴ Haiti’s con-

²² Linda M. Rupert, “Marronage, Manumission, and Maritime Trade in the Early Modern Caribbean,” *Slavery and Abolition* 30, no. 3 (2009): 361–382; Neville A. T. Hall, *Slave Society in the Danish West Indies: St. Thomas, St. John, and St. Croix*, ed. B. W. Higman (Baltimore, 1992), 124–130; Jane G. Landers, *Atlantic Creoles in the Age of Revolutions* (Cambridge, Mass., 2010), chap. 1; Julius Scott, “The Common Wind: Currents of Afro-American Communication in the Era of the Haitian Revolution” (Ph.D. diss., Duke University, 1986), 93–103. For particular examples of Spanish sanctuary decrees for slaves, see “Recopilación de consultas y pareceres dados a S.M. en asuntos del gobierno de Indias” (1712–1765), in Archivo Histórico Nacional, Madrid, Consejo de Indias, Códices, Libro 753 (no. 96, beginning on f. 152v) (consulted online, PARES, June 3, 2010, <http://pares.mcu.es/Bicentenarios/portal/consejoDeIndias.html>); and the Royal Order of February 20, 1773, transcribed in Biblioteca Nacional José Martí, Colección Manuscrita, Morales, t. 79, no. 136, dated April 14, 1789.

²³ There is an extensive literature on the Somerset case. For a recent and useful introduction, see “Forum: *Somerset’s Case* Revisited,” *Law and History Review* 24, no. 3 (Fall 2006): 601–671, including George Van Cleve, “*Somerset’s Case* and Its Antecedents in Imperial Perspective,” and comments by Daniel Hulsebosch and Ruth Paley. On the significance of the Somerset case for popular antislavery, see Edlie L. Wong, *Neither Fugitive nor Free: Atlantic Slavery, Freedom Suits, and the Legal Culture of Travel* (New York, 2009), chap. 1.

²⁴ Pétion to J. E. Douglas, March 29, 1817, in Jamaica Assembly, *A Report of a Committee*, 45–46.

stitution and actions in this case, he argued, were no different from the British principles of asylum and free soil. Surprisingly, authorities in London concurred. Under-Secretary of State for War and the Colonies Henry Goulburn examined the issue and concluded “that the laws of Hayti much resemble those of Great Britain, so far as not to permit persons who have once landed in that island to be considered or treated as slaves.”²⁵

Pétion’s version of free soil, however, was significantly more radical than any British or French precedent. First, his freedom principle was proclaimed not for European territories that were geographically removed from the spaces of mass chattel slavery, but instead for a former slave colony a short sail from numerous and flourishing slave regimes. Thus, his free soil was declared in the geographical space where it most mattered. Second, he made free soil not only a legal principle to be invoked and argued in specific cases, as it was in Europe, but in fact a general and inviolable principle written into the supreme law of the land. He thus drew on principles from Old Regime antislavery and combined them with elements of Haitian antislavery to expand the scope of each. Pétion’s policies broadened the concept of free soil by promising arrivals not only freedom from enslavement, but also citizenship. He simultaneously expanded the reach of the freedom won in the Haitian Revolution and reaffirmed in every Haitian constitution by making it available to strangers, to people who had not been present at the moment of the constitution’s drafting. Article 44 thus made freedom and citizenship more widely attainable, and gave the promise of Haiti’s radical antislavery a more robust life and international projection in an age and place where neighboring states remained very much invested in the regime of slavery.

IF ARTICLE 44—AND THE CONSTITUTION more broadly—represented a radicalization of longstanding free-soil precedents, it also reflected an engagement with newer, revolutionary ideas about freedom and sovereignty emerging on both sides of the Atlantic. Clearly, Article 44 reaffirmed, expanded, and projected internationally the foundational antislavery of the Haitian Revolution. Every Haitian constitution, starting with Toussaint’s colonial constitution in 1801, had specified that the abolition of slavery was guaranteed “in this territory.” Article 1 of Pétion’s 1816 constitution, like its predecessors, declared: “There cannot exist slaves within the territory of the Republic: slavery is forever abolished.” By contrast, as Sibylle Fischer’s work has emphasized, the 1789 “Declaration of the Rights of Man and of the Citizen” in France famously declared that “men are born free and equal in rights” in a manner that implicitly seemed to reference all men universally, but which, by referring neither to a specific location where that freedom would be respected nor to the very real slavery that existed in France’s own territory, fell far short of ending the actual institution of slavery. By explicitly specifying the location where freedom would be made real—“in this territory” in 1801, in the territory of Haiti or of the republic after 1806—the Haitian constitutional texts made it clear that the freedom envisioned was not an abstract proposition, but freedom from real, existing slavery. Freedom was

²⁵ Henry Goulburn to John Wilson Croker, Esq., *ibid.*, 53.



FIGURE 1: Alexandre Pétion, President of the Republic of Haiti, 1807–1818. Kurt Fisher Haitian History Collection, Photographs and Prints Division, Schomburg Center for Research in Black Culture, New York Public Library, Astor, Lenox and Tilden Foundations.

there, on that soil, guaranteed to all.²⁶ In 1816, Article 44 was novel, indeed groundbreaking, because it made that territory without slavery now expressly and legally available to outsiders, to slaves of foreign masters, subjects of foreign kings, and outcasts of other governments.

Pétion never sought to deny that the men had been held as slaves by McKowen in Jamaica, but Haitian law, he seemed to argue, unequivocally invalidated the right of property in men claimed by McKowen and recognized by every other government of the day. Pétion's 1806 constitution, as well as its revision in 1816, did guarantee, like many others, the right of property, but it explicitly defined property as including "the right to enjoy and dispose of . . . one's work and industry."²⁷ Here, then, the protection of property, which had been used elsewhere and would continue to be used for some time as a means to protect the institution of slavery, was defined in such a way as to make slavery doubly inadmissible—as a violation of the rights of man and as a violation of an individual's right to his own property or person. Haitian law—Article 1 prohibiting slavery, Article 10 defining property to include one's own labor, and Article 44 extending the rights of Haitian citizenship, and therefore freedom, to non-white foreigners—together rendered moot and invalid McKowen's (or anyone else's) claim to be the master of black persons residing in Haiti.

If Pétion's reasoning purposely ignored the legal status of the Jamaican sailors outside of Haiti, it also neutralized their master's claim that the men were criminals. Pétion did not deny that the men had stolen the *Deep Nine*; indeed, he returned the vessel to McKowen almost immediately. But he did not regard the taking of the vessel as a crime in and of itself. Instead, he argued that the men's potential crimes would be judged against a different standard. He wrote to McKowen, "If they have committed *crimes against the rights of Men*, they will be tried according to local law of the country of which *they are now citizens*."²⁸

Pétion's invocation of the rights of man suggests that he was thinking expansively about Haiti's relationship to international debates on freedom and rights. He insisted, first, that the rights of man would serve as the standard against which claims on the freedom of the men would be judged. Importantly, he also reserved that judgment to Haitian courts. By making local courts the arbiter of the rights of man, Pétion in a sense universalized Haitian law: national law would have a duty to uni-

²⁶ An insightful discussion of the meanings of the differences in wording between Toussaint's constitution of 1801 and its French precedents will appear in Sibylle Fischer, " 'Here, all men are born, live, and die free and French': Toussaint Louverture's Constitution of 1801 and the Difficult Politics of Universal Human Rights" (article manuscript in preparation). It is interesting to note that the only Haitian constitution of the early post-independence period not to specify that slavery was abolished *in* Haiti was the first official Haitian constitution of 1805 of Dessalines, which stated simply and expansively, "L'esclavage est à jamais aboli." <http://modern-constitutions.de/HT-00-1805-07-27-fr-i.html>.

²⁷ While some important European texts had defined property as that "which men have in their persons as well as goods," constitutional texts from the period generally affirm a right to property without specifying what is meant. John Locke, *Two Treatises on Government* (London, 1821), 340.

²⁸ Emphasis added. The letter is available only in the English translation prepared by British officials in Jamaica. It is worth noting the term "rights of Men." The use of "Men" rather than "Man" reads somewhat awkwardly and raises the question of the exact phrasing in the original. Did it say *droits de l'Homme* or something else, perhaps *droits des gens* (from the Roman concept of *ius gentium*), often translated as "the Law of Nations," referring to natural or common law among states, and encompassing laws on national boundaries, extradition, prosecution of piracy, and so on? In this particular case, then, a reference to the rights of man, related to the right of liberty and the repudiation of enslavement, and a reference to the law of nations might both have been appropriate for Pétion.

versal rights. At the same time, he Haitianized universal rights: the human rights proclaimed and then denied to black people the world over would be respected and realized concretely on Haitian territory. It bears saying that this version of universal rights in Haiti did not apply to most whites, as Articles 38 and 39 of the 1816 constitution, echoing earlier ones, prohibited the entry of white men as property owners and denied them the possibility of becoming Haitian citizens, measures that were designed to impede the return of white French émigrés with potential designs of re-enslavement or reconquest.²⁹

One aspect of Pétion's invocation of rights merits further analysis. His claim that the men were citizens of Haiti seems to represent a generous reading of Article 44, which stated that arrival in Haiti gave African- and indigenous-descended people the right of nationality, with the rights of citizenship to follow a year later. The men in question had been in Haiti for less than a month, yet Pétion stated explicitly that they were "now citizens" of Haiti. It is difficult to know what to make of his reluctance to recognize the distinction between nationality and citizenship, which is explicitly established in the constitutional article itself. Comparisons to French metropolitan law may be instructive here.³⁰ Pétion's definition of nationality echoed pre-revolutionary French law, which rooted nationality in territory rather than blood, defining a French person as someone born on French soil. In Haiti, where more than two-thirds of the formerly enslaved were African-born, leaders eschewed the requirement of birth on national soil; presence rather than birth was key. Importantly, French law itself was changing as a result of the revolution, as naturalization became a matter of law rather than monarchical favor: from a 1790 decree that granted the rights of active citizenship to foreigners after five years of residence, to the revolutionary constitution of 1793, which declared that any foreigner domiciled in France for one year had the rights of a French citizen. By the time of Haitian independence in 1804, however, French law had departed from that norm with the promulgation of the Civil Code of 1803, which conceived nationality as emanating from blood rather than soil, meaning that a French citizen was defined as someone born to a French father, irrespective of his or her actual presence on French soil.³¹ The Haitian constitution thus echoed France's earlier, more inclusive definitions of nationality. In the 1817 case, Pétion's blurring of the lines between nationality and citizenship

²⁹ Article 39 allowed whites in Haiti serving either in the army or as public functionaries, and who had arrived before the 1806 constitution went into effect, to be recognized as Haitian citizens, but made it clear that no white person would enjoy the same right after the publication of the 1816 constitution. Dessalines's 1805 constitution also forbade the entry of land- or slave-owning whites and prohibited any newly arrived white person from acquiring property of any kind in Haiti (Article 12). Christophe's 1807 constitution for northern Haiti did not include prohibitions on white landownership or citizenship. See the texts in Janvier, *Les constitutions d'Haiti*. For a discussion of these property and race provisions over time, see Nicholls, *From Dessalines to Duvalier*, 53.

³⁰ That Pétion sometimes engaged directly with metropolitan precedents is suggested by his instruction to local jurists that when legal uncertainties arose in matters for which no local law could serve as a guide, and until the drafting of a Haitian civil code, jurists should use the Napoleonic Code as a basis for their decisions. See Thomas Madiou, *Histoire d'Haiti*, 8 vols. (Port-au-Prince, 1985), vol. 5: *1811–1818*, 359.

³¹ On French definitions of nationality, see Patrick Weil, *How to Be French: Nationality in the Making since 1789*, trans. Catherine Porter (Durham, N.C., 2008), 11–36. For an interesting discussion of the distinction between nationality and citizenship and between simple (passive) and political (active) citizenship in the context of French revolutionary constitutions, see Peter Sahlins, *Unnaturally French: Foreign Citizens in the Old Regime and After* (Ithaca, N.Y., 2004), 283–289.

served to make those definitions even more capacious. He thereby made nationality for non-whites easily obtainable and, importantly, nearly coterminous with citizenship.

There is another important way in which the 1816 constitution and the 1817 case reflected a potentially radical engagement with emerging notions of nationality, territory, and citizenship. Article 3 of the 1816 constitution announced—for the first time—the right of “sacred and inviolable” asylum.³² By the early nineteenth century, asylum in England and elsewhere in Europe was based in territorial sovereignty rather than religious sanctity, and it was offered generally to foreigners who had been banished or persecuted as a result of their political beliefs. Only in Haiti, however, was the practice incorporated into the nation’s constitution.³³ Although the Haitian constitution did not specify to whom asylum could be granted, Pétion’s actions in this case suggested that it would be available to the foreign enslaved. To offer asylum to fugitive slaves was to assert the sovereign power of the Haitian state, on the one hand, and to recognize enslavement as a form of persecution that obligated the granting of asylum, on the other. Article 44, then, cannot be fully understood without being placed in the context of the broader constitution in which it was embedded. Its full power was tangible only alongside those other articles that unequivocally illegalized slavery, rejected any definition of property that might allow a return of slavery even in a few isolated cases, and offered asylum and protection to foreigners.

The Haitian constitution of 1816 and its 1817 application in the case of the seven sailors thus represented a productive engagement with and participation in the major moral and political questions of the Age of Revolution: the fate of slavery, the relationship between rights of property and rights of liberty, and the boundaries of nationality and citizenship. However, Haiti’s engagement with these notions was nothing if not dynamic. In combining the articles in one constitution, Haiti seemed to have gone significantly beyond the conception of those rights in their European (or North American) enunciations. This does not mean that the universalist ideals of rights expressed but truncated elsewhere were realized or redeemed in Haiti by some logic of rights. Rather, in their engagement with those ideals and in their development of real-world policy informed by them, Haitian leaders actually made them something other than what they were originally meant to be. Thus the abstract right of liberty proclaimed elsewhere was transformed into a concrete prohibition on slavery, including the explicit cancellation of all debt ever contracted for the purchase of human beings (Article 2). The right to property, so fundamental to liberal constitutions, was also proclaimed, but it was explicitly defined in a way that no liberal power would have conceived at the time. The sovereign nation, as elsewhere, was imagined as a “space of citizenship in which rights would be accorded and pro-

³² On the right of asylum and the welcome of refugees, see Moïse, *Constitutions et luttes de pouvoir en Haïti*, 1: 54.

³³ The French constitution of 1793, Article 120, asserted the right of asylum to foreigners fighting for “liberty against tyranny,” but that constitution was never implemented. On the French right of asylum, or *droit d’asile*, see Greg Burgess, *Refuge in the Land of Liberty: France and Its Refugees, from the Revolution to the End of Asylum, 1787–1939* (New York, 2008), esp. chap. 1. On the transformation of notions of asylum in the eighteenth century, see S. Prakash Sinha, *Asylum and International Law* (The Hague, 1971).

ted.” But Articles 10 and 44 (and the particular applications they were given) represented a robust redefinition of a space of rights that until then had been essentially national in conception. In Haiti, the space of citizenship—made available to non-white and enslaved foreigners in 1816—was expressly transnational. And the seven sailors from Jamaica seemed to understand that quite clearly.³⁴

ARTICLE 44 AND THE 1816 CONSTITUTION were the products of a thoroughgoing intellectual engagement with both longstanding and emerging principles of freedom and rights. But they must also be understood in the context of Haitian government policy as it evolved after (and in some cases prior to) independence in 1804. Moreover, some of the policies and decisions made by Haitian governments might productively be understood as themselves responding to initiatives and demands by black and brown people in Haiti and beyond.

The Caribbean was an intensely mobile space, and in an age of sea travel, islands and coasts were often more well-connected than their neighboring mainlands and interiors. Since the first abolition of slavery in Saint-Domingue in August of 1793, foreigners of color had arrived seeking (and sometimes securing) freedom from local officials. Ashli White has examined a 1794 case in which a Philadelphia servant fled to revolutionary Saint-Domingue, where French governor Étienne Laveaux refused “to force a man against his own will to leave the land of liberty where he has taken refuge.”³⁵ Sometimes local authorities were even more aggressive in making that land of liberty accessible to strangers. In 1797, black privateers from Saint-Domingue stopped a Swedish slaving vessel that was transporting African captives to Havana, declaring their intention to take the captives to Saint-Domingue so that they “might enjoy their freedom in the land of liberty.”³⁶ Even during the revolution, then, a territorially based notion of freedom—of a land of liberty in which liberty had ex-

³⁴ European intellectual historian Samuel Moyn takes a highly critical view of recent work on the Haitian Revolution and human rights, which in his view erroneously attributes a human rights stance to Haitian revolutionaries. He refers specifically to the work of Lynn Hunt and Laurent Dubois. Moyn argues that the main difference between rights associated with the Enlightenment and the Age of Revolution and modern human rights is that in the former the nation-state (and its authority) was central, while the latter emerged expressly to transcend that authority. While Moyn’s criticism can serve as a useful warning against anachronistic back-streaming from modern notions of human rights, it does simplify more nuanced positions taken by the authors he engages. His necessarily brief discussion of Haiti and human rights does not contend with Haiti as a producer of political thought on these questions, nor with the presciently transnational potential of the rights enunciated by Haitian leaders. Moyn, *The Last Utopia: Human Rights in History* (Cambridge, 2010), 1–43, here 13, 31–33.

³⁵ Ashli White, *Encountering Revolution: Haiti and the Making of the Early Republic* (Baltimore, 2010), 148. Jeffrey Bolster discusses another case in 1802, in which a black sailor escaped to the then French colony claiming “the protection of a French citizen to which he was entitled, [and] that he was now at full liberty and no longer a Slave.” He appears to have won his freedom there. Bolster, *Black Jacks: African American Seamen in the Age of Sail* (Cambridge, 1998), 144–145.

³⁶ See ANC, Gobierno General, leg. 529, exp. 27084, Nicolás Guillarte to Juan Nepomuceno de Quintana, March 27, 1797, and testimony of crew members Fernando Deurer, Andrés Lundbenos, and Juan de Pontes. In this case, the privateers did not succeed in freeing the captives on board because they were surprised by an English vessel. “Land of liberty” might have referred to Saint-Domingue specifically or to France more broadly, as the term (*pays de la liberté*) was also used in metropolitan France. See Burgess, *Refuge in the Land of Liberty*, chap. 1.

PLICIT material content—appears to have had some power both for local authorities and for black people arriving to claim it.

After independence, the new leaders made it increasingly clear that the “land of liberty” referred to Haiti and not to France, which had by then reestablished slavery and the slave trade. At first, they sought to make that liberty available to black people who had been taken from revolutionary Saint-Domingue as slaves or servants and now wished to return as free men and women. Just days after Haiti’s Declaration of Independence in 1804, the first head of state, Jean-Jacques Dessalines, issued a decree offering payment to American ship captains for returning to Haiti people of color who had been removed from Saint-Domingue during the revolution.³⁷ Pétion himself later took up the idea in the south and expanded it over the years that followed. In January 1809, as Spanish officials were evacuating French residents from Spain’s American territory following the Napoleonic invasion of the Spanish Peninsula, Pétion seized the opportunity to try to repatriate those people whom the Spanish continued to call “French blacks.” He sent a ship to Cuba to bring back anyone interested in returning to Haiti. He also requested permission from Spanish authorities to keep sending such ships, as potential passengers were not likely to have the resources required to organize trips on their own, and one ship would not have been sufficient for all of the people he assumed would seek to return. Pétion referred to those he sought to repatriate as Haitians; Cuban authorities referred to them as “émigrés” or “French people of his [Pétion’s] class.” In the disencounter between these terms lurks the question of whether Pétion intended to repatriate men and women who had been taken from Saint-Domingue and were now being held as slaves in Cuba. He never got the chance; Cuban authorities prohibited the entry of the Haitian vessel and warned its captain that none would be received in the future.³⁸ Despite this setback, some repatriation apparently did occur aboard private Spanish ships in mid-1809. As ships left eastern Cuba with refugees headed to New Orleans, Charleston, and Baltimore, at least ten smaller vessels appear to have made journeys instead to Port-au-Prince and Jérémie carrying returnees, much as Pétion had requested a few months earlier.³⁹

Long before the 1816 constitution, then, Haitian leaders were already developing piecemeal policies designed to facilitate the return of black men and women who had been denied the possibility of freedom in Haiti. Article 44 now went significantly

³⁷ Ardouin, *Etudes sur l’histoire d’Haïti*, 8: 45. For the text of the law, see Jean-Jacques Dessalines, *Lois et actes sous le règne de Jean Jacques Dessalines* (Port-au-Prince, 2006), 13–14.

³⁸ See the correspondence between Pétion and Santiago governor Sebastian Kindelán, between Kindelán and Havana governor, the Marqués de Someruelos, and between Someruelos and Secretario de Estado, Madrid, in ANC, AP, leg. 209, exp. 144; and AGI, Estado, leg. 12, exp. 54.

³⁹ See the lists titled “Relación de los Extrangeros que han salido de esta Ciudad,” dated Baracoa, June and July 22, 1809, both in ANC, Gobierno General, leg. 530, exp. 27085. The lists include vessels leaving for ports in Haiti and the United States. The lists of passengers aboard U.S.-bound vessels often include designations of people as “esclavos” (slaves), “criados” (servants), or “domésticos” (domestics). Haitian-bound vessels did not identify people in servile capacities. Whether that difference is attributable to a difference in the lived status and experience of the passengers in Cuba prior to departure, or to the manner in which the lists were compiled or people were grouped together for the voyages or identified either by themselves, shipmates, or captains upon departure, is impossible to know. For related questions of status, mobility, and the law, see Rebecca Scott, “Paper Thin: Freedom and Re-Enslavement in the Diaspora of the Haitian Revolution,” *Law and History Review* 29, no. 4 (2011): 1061–1087.

further, promising freedom and citizenship not just to blacks returning to Haiti, but potentially to *all* people of color and their descendants.⁴⁰

But here again, policies and decisions that predated the 1816 constitution seemed already to be pointing in that direction in daring ways. Throughout the decade beginning in 1810, for instance, Haitian state vessels—including northern ships—captured several slave-trading vessels bound for neighboring colonies with captives taken from Africa. In these cases, the captives were liberated and allowed to remain in Haiti, and the ships were sent on to their destinations, usually with their crews but without their human cargoes. In at least one case in the north, the African captives arriving in Haiti were publicly welcomed and informed that “they were free and among brothers and compatriots.”⁴¹ The public use of the term “compatriot” suggests the former captives’ incorporation as Haitian nationals. In this way, the individual captures may have presaged what Pétion tried to extend and guarantee in the Haitian constitution of 1816: freedom and citizenship on Haitian soil for foreign persons of color who otherwise would have lived in slavery.

Not only was Haitian nationality offered to men and women liberated off slaving vessels, it was also, in at least some instances, conferred on those who came to Haiti of their own initiative. In 1814, U.S. officials complained that Pétion was regularly “seducing” sailors from all nations who entered his port. That same year, one black sailor, a native of Martinique who had been living in New Orleans for many years, decided to stay in Port-au-Prince. The man insisted that he was Haitian, despite the fact that he was “never until now in Haiti.” Thus, two years before the revision of the constitution, foreign black sailors were seeking refuge in Haiti, calling themselves Haitian, and claiming the privileges of Haitian citizenship.⁴² The case, only briefly discussed by the U.S. consul in Haiti, who felt limited in what he could raise with the president of a republic that his own government did not recognize, suggests a fascinating possibility: that Pétion’s offer of Haitian protection and citizenship to all arriving people of color may have been, at least in part, a response to—and an acknowledgment of—what some foreign blacks in the region were already claiming for themselves.

⁴⁰ The inclusion of indigenous people in Article 44 may have been symbolic, perhaps in line with the naming of the country as Haiti, its original indigenous name, or the naming of the revolutionary army as the Army of the Inca. But that symbolism itself may provide insight into how early Haitian leaders imagined their political and intellectual project. When Dessalines declared in spring 1804 that he had “avenged America,” he seemed to allude to a vision of history and justice that encompassed more than Africans. One wonders also whether the reference to indigenous people may have served obliquely as a way to address people in Spanish Santo Domingo, whom Haitian leaders sometimes referred to as descendants of Indians, as in Dessalines’s April 1805 proclamation, written after his unsuccessful attempt to drive the French out of that part of the island: “Spanish indigenes, descendants of the unfortunate Indians immolated by the cupidity and greed of the first usurpers of this land.” Quoted in Jenson, *Beyond the Slave Narrative*, 155. When Article 44 was written in 1816, slavery and Spanish rule still persisted on the eastern part of the island.

⁴¹ The quote is from *Gazette Royale d’Haïti*, October 10, 1817, quoted in Ardouin, *Etudes sur l’histoire d’Haïti*, 8: 66. For a discussion of some of these cases of captured slavers, though with a focus more on northern examples, see Ada Ferrer, “Speaking of Haiti: Slavery, Revolution, and Freedom in Cuban Slave Testimony,” in David Patrick Geggus and Norman Fiering, eds., *The World of the Haitian Revolution* (Bloomington, Ind., 2009), 240–241; and José Luciano Franco, *Comercio clandestino de esclavos* (Havana, 1996), 106–107.

⁴² U.S. National Archives and Records Administration, General Records of the Department of State, Record Group 59, microfilm M9, reel 5, Consular Despatches, Cap Haitian, William Taylor to James Monroe, August 30, 1814.

BOTH PLACE AND TIME—THE SLAVEHOLDING Atlantic at the turn of the nineteenth century—were strongly present in the policies of the southern republic. By 1816, slavery had uneven power in the region. On the one hand, it had become increasingly influential in places such as Cuba and the U.S. Lower South; in old British colonies such as Jamaica, it maintained its brutal hold over hundreds of thousands of people. At the same time, both Britain and North America had abolished the slave trade, and the British were embarking on an aggressive policy of policing and suppressing the trade on the high seas. Pétion appears to have developed his free-soil policy with both realities in mind. For the enslaved in places such as Jamaica, Article 44 made Haiti an accessible place of refuge and freedom. But in a world in which both abolitionism and racism were on the rise, Article 44 promised to turn Haiti into a place of refuge also for the newly or soon to be freed, who were unable to enjoy the rights of citizenship elsewhere.

Pétion appears to have actively thought about the contest between slavery and freedom in the neighboring United States, where campaigns to limit the mobility of black men and women were in full force. U.S. law required the authorities in free states to give up anyone claimed as a fugitive slave by a putative owner from a slave state. In some northern states, legislatures contemplated restrictions on the entry of free blacks.⁴³ Meanwhile, Quakers and slaveholders, with discrepant motivations, collaborated to settle free black people in foreign territories. The Haitian constitution of 1816 appeared in the same year as the establishment of the American Colonization Society, which was dedicated to resettling freed blacks in Africa. That same year, Paul Cuffee, a free black Quaker and wealthy ship owner, made his first journey to Sierra Leone with thirty-eight free black settlers. Hearing reports from black American sailors arriving in Port-au-Prince that the U.S. government was considering forcibly removing freed blacks to Africa, Pétion sought to insert Haiti into the calculations of exit and removal being made in the United States. Through his secretary-general, Joseph Balthazar Inginac, he invited black Americans to emigrate to Haiti as a way of resisting the exclusion and abuse they faced in the U.S.

Open to their eyes the Constitution of our Republic, and let them see in its 44th Article a fraternal hand opened to their distresses. Since they are at this day refused the title of Members of the American Union, let them come among us, in a country firmly organized, and enjoy the rights of Citizens of Hayti, of happiness and peace: lastly, let them come and show to white men that there yet exist coloured and black men who can raise a fearless front secured from insult and from injury.

The letter, which also offered “bounties of land” and “open arms,” was published in New York in 1818 as the preface to an English translation of the 1816 constitution; it was also published, with excerpts from the constitution, in at least one northern newspaper.⁴⁴ Pétion’s strategy enjoyed some success, as several proponents of Af-

⁴³ See especially Don E. Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government’s Relations to Slavery*, completed and ed. Ward M. McAfee (New York, 2002), chap. 7. For a fascinating discussion of the freedom principle in Pennsylvania, see Richard S. Newman, “‘Lucky to Be Born in Pennsylvania’: Free Soil, Fugitive Slaves, and the Making of Pennsylvania’s Anti-Slavery Borderland,” *Slavery and Abolition* 32, no. 3 (September 2011): 413–430.

⁴⁴ Inginac to James Tredwell, November 21, 1817, in *The Constitution of Hayti* (New York, 1818), 5; retrieved from the Archive of Americana online database, June 20, 2011. A copy was published in *Niles Weekly Register*, October 17, 1818. Pétion’s attempt to disseminate news of his policies was in line

rican colonization, including Cuffee and later Loring Dewey, a founder of the American Colonization Society, began seriously considering a Haitian alternative to African colonization schemes. In the 1820s, approximately 6,000 to 13,000 African Americans migrated to Haiti, a movement clearly facilitated by Pétion's campaigns and legislative policy.⁴⁵

Even as abolitionism was on the rise in the northern states, colonization schemes and legal constraints on black mobility made it very clear to Pétion that in other nations abolition would not be tied to the rights of citizenship or equality. While the sailors from Jamaica imagined Haiti as a place to attain legal freedom, potential free black emigrants viewed it as a place to make an already existing legal freedom more consequential. It was at this critical juncture—in a place and time when the power of slavery and antislavery and racism were all palpable—that Pétion developed his free-soil policy as a means to intervene in pressing contests over the fate of slavery and the formerly enslaved. In the same way that his policies seemed to consider both Old Regime and revolutionary sources of rights and freedoms, Article 44 in 1816 clearly seemed to treat slavery as something of a dual institution in that moment—still strong and in ascent in some areas, but under increasing challenge and gradually giving way to a compromised freedom and thwarted citizenship in others.⁴⁶

If Haiti's attempt to shape U.S. emigration schemes was motivated in part by a commitment to help expand the content of freedom for black men and women abroad, it also emerged in the context of Haiti's assertion of sovereignty. After Pétion's death, his successor, Jean-Pierre Boyer, continued to advocate African American settlement in Haiti. But in 1824, when at least one U.S. scheme contemplated the establishment of "a colony . . . [with] its own laws, courts, and legislature, in *all* respects like one of the States of the United States, and *connected with* and *subject to* the government of Hayti," Boyer responded categorically: "That cannot be." He elaborated only with a general declaration of principles that again returned to the 1816 constitution, and to Article 44 in particular: "The laws of the Republic are general—and no particular laws can exist. Those who come, being children of Africa, shall be Haytiens as soon as they put their feet on the soil of Hayti."⁴⁷ For Haiti's leaders, the process of guaranteeing and giving meaning to freedom from slavery, first locally and then transnationally, was always tied to the question of sovereignty: from fighting against the French expeditionary force in 1802, when Napoleon tried

with what Deborah Jensen has recently examined for an earlier period under Dessalines, who, for example, sent copies of new laws to U.S. publishers and newspapers. See Jensen, *Beyond the Slave Narrative*, 124, 127, 130–131, 138, 142, 150. In both instances, the Haitian state was actively trying to shape its global image and to insert itself into an Atlantic sphere of debate over slavery and freedom.

⁴⁵ On American colonization and Haiti, see Sara C. Fanning, "The Roots of Early Black Nationalism: Northern African Americans' Invocation of Haiti in the Early Nineteenth Century," *Slavery and Abolition* 28, no. 1 (April 2007): 61–85; Chris Dixon, *African America and Haiti: Emigration and Black Nationalism in the Nineteenth Century* (Westport, Conn., 2000); and Floyd J. Miller, *The Search for a Black Nationality: Black Emigration and Colonization, 1787–1863* (Urbana, Ill., 1975).

⁴⁶ In some sense, Pétion appears to have understood the extended moment as a kind of "hinge" between what Dale Tomich has called the first and second slaveries, the second being the slavery that expanded at the height of abolitionism in emerging or expanding areas of cultivation. See Tomich, *Through the Prism of Slavery*, chaps. 3, 5, and 6.

⁴⁷ Loring D. Dewey, *Correspondence Relative to the Emigration to Hayti, of the Free People of Colour, in the United States: Together with the Instructions to the Agent Sent Out by President Boyer* (New York, 1824), 4, 10.

to reimpose slavery, to declaring independence in 1804, to attempting an invasion of the eastern part of the island in 1805 when ruling French officials there invited local residents “to fan into the territory occupied by the rebels [Haiti], to run upon them, and to take prisoner anyone, of either sex, not older than fourteen years of age,” who would then be sold as slaves and deported.⁴⁸ The necessity for Haitian leaders to assert both freedom from slavery and national sovereignty, evident since 1802, appeared present again in connection with the question of African American resettlement. Haitian leaders made it clear that while “emigration” would be welcomed and sought, “colonization” would be impossible.

That Haiti’s leaders linked the fates of antislavery and sovereignty is evident also in Pétion’s engagement with South America. Since the French occupation of the Iberian Peninsula in 1808, Spanish America had become a hotbed of political agitation and uncertainty. Importantly, Pétion’s refusal to return the Jamaican sailors made reference to those political struggles in Latin America. Indeed, he even hinted that he was thinking of Latin America as up for grabs, and potentially as the hemisphere’s second free-soil territory. He wrote to McKowen, “Every country has its Laws, as you must know Sir, and fortunately for the cause of humanity, Hayti is not the only one where Slavery is abolished.”⁴⁹ His confident assertion that abolition was already a reality in at least one other country was a bold and unexpectedly public reference to the revolutionary abolition of slavery in Venezuela by Simón Bolívar in July 1816.

Pétion’s invocation of Bolívar’s emancipation of Venezuela’s slaves had particular significance, given the role that he had played in making it happen. Since December 1815, his government had provided asylum to Latin American independence leaders, including Bolívar, to whom Pétion had offered 6,000 rifles, munitions, supplies, naval vessels, a printing press, and an unknown number of Haitian sailors and soldiers.⁵⁰ With Pétion’s knowledge and approval, as many as 600 pro-independence families from Cartagena and Caracas took refuge and received support in Les Cayes. Thus the proclamation of the right to asylum written into Article 3 of the 1816 constitution consolidated and extended what had already been occurring in practice with the Haitian state’s protection of Bolívar and other like-minded men and women.⁵¹

Importantly, Pétion linked the asylum he offered Bolívar to his broader project of antislavery, thus pushing the Latin American revolutionaries toward new and more radical policies. In exchange for his support, he required two promises from Bolívar. First and famously, Bolívar pledged to abolish slavery in the new republic

⁴⁸ This stunning example is discussed in two recent works: Graham Nessler, “A Failed Emancipation? The Struggle for Hispaniola during the Haitian Revolution, 1789–1809” (Ph.D. diss., University of Michigan, 2011), chap. 5; and Jenson, *Beyond the Slave Narrative*, 151–152. Both call attention to the extent to which Haitian sovereignty was actively threatened by the continuing French presence on the eastern side of the island.

⁴⁹ TNA, CO 137/145, Pétion to McKowen, January 30, 1817.

⁵⁰ On Bolívar’s time in Haiti, see Verna, *Pétion y Bolívar*; and Sibylle Fischer, “Bolívar in Haiti,” in Raphael Dalleo, Luis Duno-Gottberg, Carla Calarge, and Clevis Headley, eds., *Haiti and the Americas: Histories, Cultures, Imaginations* (Oxford, Miss., forthcoming 2012).

⁵¹ See Verna, *Pétion y Bolívar*; John Lynch, *Simón Bolívar: A Life* (New Haven, Conn., 2006), 159–181. In less impressive quantities, Pétion offered succor and aid to Francisco Javier Mina and Pedro Labatot, who organized expeditions to Mexico and New Granada, respectively. William Lewis, “Simón Bolívar and Xavier Mina: A Rendezvous in Haiti,” *Journal of Inter-American Studies* 11, no. 3 (July 1969): 458–465. On asylum and the constitution, see Moïse, *Constitutions et luttes de pouvoir en Haïti*, 1: 54.

he was fighting to establish. He sailed from Haiti for the first time in March 1816 and began the gradual abolition of slavery in May, freeing those who were willing to serve in the liberation army. By July, he had proclaimed general emancipation: “Nature, justice, and politics call for the emancipation of the slaves. From here on forward, there will only be one class of men in Venezuela: all will be citizens.” It was this act, he wrote to Pétion, that gave the South American revolutions their true and most just meaning.⁵² In extracting the promise of slave emancipation, Pétion aspired to extend the geographic space of liberty, hoping to help found the hemisphere’s second country without slavery.

Bolívar’s second promise is less well known but equally significant. At Pétion’s insistence, he pledged that any captive Africans taken from slave-trading vessels by insurgent privateers would not be sold into slavery but rather would be turned over to the Haitian government. As the slave trade to Spanish and Portuguese territories flourished and as insurgent seamen plied American waters, there was considerable opportunity to seize human cargo. Evidence exists that these privateers regularly took captive Africans and sold them in places such as Cuba. By extracting Bolívar’s promise that insurgent privateers would not sell captured Africans, Pétion devised a new arrangement whereby captives on the sea would be brought to freedom on Haitian territory, thus extending the physical reach of Haitian free soil into Caribbean and Atlantic waters.⁵³

It was only three weeks after the departure of Bolívar’s second expedition on December 21, 1816, that the seven sailors stole away to Haiti and were there declared free and Haitian. Bolívar’s second expedition, like the first, was organized under Pétion’s protection, sailing with munitions, supplies, and vessels provided by Haiti’s president. One British member of the company described the troops as “principally blacks of St. Domingo or runaway slaves from the Colonies.” The mention of runaways raises the question of whether some of the black men freed upon arrival on Haitian soil subsequently became foot soldiers in a new project to extend to the South American mainland the promise of what had been achieved by Haiti in 1804: freedom from slavery and European rule.⁵⁴

⁵² See “Simón Bolívar a los habitantes de la provincia de Caracas,” reprinted in Simón B. O’Leary, *Memorias del General O’Leary*, 34 vols. (Caracas, 1981), 15: 84. See also Lynch, *Simón Bolívar*, 100. In fact, slavery would not be legally abolished in Venezuela until 1854. More work needs to be done considering the apparent discrepancies between the attitudes Bolívar assumed in Haiti and toward Pétion and his less broad-minded words and actions on race and slavery later.

⁵³ On the promise to bring captives to Haiti rather than sell them into slavery and on the insurgent practice of capturing slave ships and sometimes selling the captives (in at least one instance, after Bolívar’s promise), see Verna, *Pétion y Bolívar*, 337–342; ANC, AP, leg. 8, exp. 39, “Expediente sobre que el Real Consulado de la Habana acredita el apresamiento de 127 embarcaciones mercantes españolas por buques insurgentes, piratas y otros desde el año 1801 hasta el de 1819”; and ANC, AP, leg. 124, exp. 48, Governor of Santiago de Min. de Estado, June 7, 1816. On insurgent privateering and the slave trade, see Lauren Benton, “Abolition and Imperial Law, 1790–1820,” *Journal of Imperial and Commonwealth History* 39, no. 3 (2011): 355–374; and Benton, “Una soberanía extraña: La Provincia oriental en el mundo Atlántico,” *20/10 El mundo atlántico y la modernidad iberoamericana, 1750–1850* (forthcoming, 2012).

⁵⁴ The reference to the presence of runaway slaves from colonies appears in C. Brown, *Narrative of the Expedition to South America, Which Sailed from England at the Close of 1817 for the Service of the Spanish Patriots Including the Military and Naval Transactions and Ultimate Fate of That Expedition* (London, 1819), 115–116. See also Verna, *Pétion y Bolívar*, 337.

BUT WHAT OF THE ENSLAVED JAMAICAN SAILORS who found themselves at the center of the dispute over the boundaries of Haitian freedom and citizenship in 1817? Some combination of foresight and happenstance brought them to Haiti soon after the law would recognize them as Haitian and thereby as free. But how did they understand the freedom that might thus be acquired?

It comes as no surprise that their former master, McKowen, characterized the men's decision to make for Haiti in ways that minimized its legitimacy and power. He insisted that they had been seduced into escaping by a man of color who had boarded the *Deep Nine* at Rocky Point and escorted them to Haiti.⁵⁵ Some of the fugitives, he added, were "very young people, who I am confident are not capable of appreciating the value of becoming Citizens of Hayti."⁵⁶ Young, unknowing boys had been enticed or forced by the older crew members or the shady recruiter to make their way to the first black and antislavery state, unaware of the implications of their actions. Finally, complained McKowen, the recruiter had gone unpunished and was still at large at Les Cayes.

Les Cayes, along with other ports on Haiti's southern peninsula, had long been involved in the smuggling trade with Jamaica. Privateers outfitted there often made incursions into Jamaican territory and seized vessels. It was also a place of refuge for hundreds of patriot families from South America; and it was there that both Simón Bolívar and Francisco Javier Mina organized, recruited for, and launched expeditions to liberate Latin American territory. Thus what McKowen cast as a suspect relationship between a Les Cayes recruiter and unwitting Jamaican sailors may instead have signaled multiple "masterless" contacts embedded in a web of communications involving both trade and international politics.⁵⁷ Indeed, when McKowen went to Les Cayes to retrieve the men and boys he considered his property, he was distressed to find "a great number, say from thirty to forty, negroes, who avowed themselves to be runaways from [Jamaica]; and many of them were personally known to my own negroes."⁵⁸ Two of them may have been among a group of slaves who had escaped to Les Cayes at around the same time as McKowen's seven and were said to belong to Hannah French of Jamaica.⁵⁹ A few years later, in Port-au-Prince, the British consul, Charles MacKenzie, would note that "a very large proportion of the population . . . [consisted] of refugee slaves from the British colonies." In Jamaica itself, British authorities complained of Haitians who arrived in

⁵⁵ The accusation appears in TNA, CO 137/145, "Humble Memorial of Robert McKowen"; and J. E. Douglas, Rear Admiral and Commander and Chief of Jamaica Station, to Pétion, May 14, 1817, in Jamaica Assembly, *A Report of a Committee*, 48.

⁵⁶ TNA, CO 137/145, McKowen to Pétion, January 30, 1817.

⁵⁷ On Les Cayes and its connections to Jamaica, see George Ripley and Charles A. Dana, *The American Cyclopaedia: A Popular Dictionary for General Knowledge* (New York, 1883), 157. On Les Cayes corsairs in Jamaican waters, see *Royal Gazette* (Jamaica) 38, no. 43 (October 19–26, 1816): 19. On the presence of Latin American independence expeditionaries and communities there, see Verna, *Pétion y Bolívar*, 159–160, 305–307; and ANC, AP, leg. 124, exp. 83, Carlos Preval to Governor of Santiago, November 24, 1816. The notion of masterless space is taken from Scott, "The Common Wind." See also Marcus Rediker and Peter Linebaugh, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, 2001).

⁵⁸ "Examination on Oath of James M'Kewan of Port-Royal, Before the Committee Appointed to Inquire into the State of the Colony," in Jamaica Assembly, *A Report of a Committee*, 29.

⁵⁹ Rear Admiral J. E. Douglas to George Lennox, Captain of HM's Ship Esk, March 17, 1817, *ibid.*, 41–42.

Kingston and other port cities with Haitian gazettes and with news meant to entice people to Haiti.⁶⁰

McKowen's seven sailors appear to have been very much a part of these networks. The sailor identified as Jem, who escaped to Haiti with the others but later returned to Jamaica, allegedly explained to McKowen that he and his companions "had often before been talking of going to Saint Domingo, having understood from the crews of different vessels from that place . . . that there was no danger of their being brought back, as they would not be given up, when once they got there." They had heard stories of other important inducements as well: "each [would] get a coffee plantation, or sugar work, with negroes to work for them," and "after being there twelve months, they [would] all be made officers." Here the sailors' expectations seemed to allude on the one hand to Article 44's promise of greater privileges after a year of residence, and on the other to the link between land distribution and military rank in the southern republic. The men, it seems, were up-to-date on Haitian news.

If we must make an informed inference in order to imagine the combination of expectation and adventure that led Jem and the others to Haiti, we need to do the same to think about their possible fates after arrival. Pétion appears not to have wavered in his defense of their right to remain in Haiti as free men. But beyond that, nothing is certain. For some, the experience of freedom may have comported with expectations. Dublin, for instance, appears to have secured the personal protection of a Haitian general at Jérémie, who baptized him, gave him his name, and then made him his aide-de-camp.⁶¹ But ironically, Dublin's story entered the historical record by way of Jem, who told it while back under McKowen's dominion. After escaping with the others, Jem had been pressed into service on a Haitian man-of-war, and from there he decided to escape back to McKowen, who was on board the British ship *Esk* in Port-au-Prince Harbor, still trying to recover his property in men. Neither McKowen nor the British officials who questioned Jem thought to ask him why he had declined the offer of Haitian freedom and citizenship. And Dublin, now aide-de-camp to a Haitian general, was never asked to comment on how his experience in Haiti compared to the expectations he had harbored before his escape from Jamaica to Haiti.

The case of Dublin, Jem, and the other Jamaican sailors did not become a precedent-setting case to be recorded along with Somerset in the formal legal annals of antislavery. It was, however, a key part of the efforts of the early Haitian state—as the first post-abolition state in the world—to shape the global contest over slavery and to assert its own antislavery and sovereign role in the world. Drawing on Old Regime legal precedents of free soil, emerging notions of rights and citizenship, and opportunities afforded by developments such as slave trade suppression, American emigration campaigns, and the independence struggles in South America, Pétion's policies represented a pragmatic and daring means to define and extend the bound-

⁶⁰ Charles MacKenzie to Foreign Secretary George Canning, June 2, 1826, quoted in Nicholls, *From Dessalines to Duvalier*, 62. On Haitians in Jamaica, see Jamaica Assembly, *A Report of a Committee*, 11–14.

⁶¹ "Examination," in Jamaica Assembly, *A Report of a Committee*, 29.

aries of freedom and citizenship in an Age of Revolution that otherwise offered no firm assurances of either to black and brown men and women.

FOR CENTURIES, ENSLAVED MEN AND WOMEN in the Caribbean and elsewhere had escaped to freedom. Some made their bids by sea on small vessels and headed for Spanish territory, finding protection in the well-known policies of Catholic sanctuary. A smaller number secured freedom in France or England by arriving on legal free soil. By 1816, however, another, much more radical possibility had emerged. By then, general liberty had been achieved in what had been the seat of the slave regime's most extreme power. The resulting state of Haiti stood not only as a symbol of liberty, but literally as free soil, a place in which freedom, enshrined in the law, could be real for black persons in their own lifetimes. In the 1817 case, the Haitian state offered the Jamaican sailors refuge and protection, elevating their claim to citizenship and emancipation above the legal claim of ownership asserted by their British master. Thus the slaves' bid for freedom found institutional and philosophical support in the constitution of a sovereign—and antislavery—black state.

This particular case can be read as part of a broader process in which the Haitian state shaped the possibilities and character of Atlantic freedom, for it highlights the fact that for the men and women most denied the promise of that freedom, the experience and the understanding of the political transformations of the age occurred in dialogue with Haiti itself. French revolutionary and British abolitionist ideas clearly circulated in the region, but they were engaged and transformed in dynamic and challenging ways in the colonies. Almost from the start of the ferment in Paris in 1789, free people of color questioned the legitimacy of elections and debates that excluded them as rightful participants; and over the course of the revolution, black and colored leaders delivered stinging critiques of what they cast as a false universalism espoused in Paris. They circulated accounts of French barbarism—of loyal officers drowned at sea; black men devoured daily by hunting dogs; wives and sisters made to dine and dance in rooms decorated with black heads on spikes.⁶² They condemned the French for thinking that they were destined to be the masters of colonial blacks, for thinking that “they alone formed the essence of human nature.”⁶³ The former slaves and long-free people of color announced, in other words, not just that they were the new rulers of the former colony, but also that they were the more legitimate and generous guardians of equality and liberty. After independence, they elaborated laws and policies that reworked and reimagined notions of property, territory, and citizenship. In a world in which slavery and colonialism held powerful sway, Haitian leaders crafted political and intellectual positions designed to extend the promise of radical antislavery despite the very real constraints imposed by the active rejection of neighboring states. No story of the rise of rights is complete without an engagement with the intellectual and political work done in Haiti.

⁶² AGI, Estado, leg. 2, exp. 59, Geffard to Someruelos, 27 Fructidor an 11; and AGI, Cuba, leg. 1537B, Kindelán to Someruelos, November 14, 1803.

⁶³ November 1803 declaration by Dessalines, Christophe, and Clerveaux, reprinted in translation in *Gaceta de Madrid*, March 23, 1804, 267–268.

Any history of the role of the Haitian state in the ascent of general liberty and universal rights nonetheless requires several cautionary notes. Haiti stood as an important beacon of freedom, willing to do much more—and more quickly—than the liberal powers of Europe to dismantle slavery where it most mattered. Haiti became literal free soil. That enslaved persons such as the Jamaican sailors took knowing advantage of that policy seems clear. But what the juridical freedom from enslavement signified in practice remains murky. Jem, at least, appears to have abandoned legal freedom in Haiti when it turned out to entail forced military service, voluntarily returning to slavery under a British master. The power and conviction of the Haitian leaders' commitment to antislavery and legal abolition is without question, but as Michel-Rolph Trouillot and others have commented, the liberty to which they were committed did not always coincide with the liberty imagined by Haitian—and Caribbean—black and brown people. While some legal documents offered freedom and protection to people such as the enslaved Jamaican sailors, others made it difficult for free workers to leave their place of work, or more generally to avoid the demands of what scholars have identified as the “militarized agriculture” of early postcolonial Haiti, or the increasingly extractive policies of what Trouillot calls “a republic for the merchants.”⁶⁴ Freed strangers likely faced some of the same fates as native Haitians, including attached labor on plantations, compulsory labor in public works, or, as in the case of Jem, forced service on state vessels or perhaps even on ships headed to South America to free new territory. At the same time, they may have responded as many Haitians did, becoming part of the “counter-plantation” society and the vibrant rural networks that succeeded in carving out spaces outside the purview of the Haitian state.

In some sense, the dilemmas around labor and autonomy that emerged in Haiti—the first post-slavery nation in the modern world—would be the problems faced in every subsequent post-emancipation society. Haiti's post-slavery relapses also have their echoes in later post-emancipation societies, from laws against vagrancy, to the use of penal labor colonies, to the entrenchment of debt peonage. But the fact that the Haitian state actively sought to make its own freedom from slavery a condition accessible to all black men and women from foreign slave societies has no real parallels. While Haiti's bold offer of emancipation and citizenship to outsiders does not mitigate the concrete internal and external obstacles to Haitian freedom, it does remind us that there are obvious and important counterpoints and disjunctures in any story about either the power of Haitian antislavery or the limits of Haitian freedom.

A further caveat to a celebratory account is perhaps equally uncomfortable. It is clear that Haiti—as an independent nation—intervened in an Atlantic arena of debate about slavery and freedom. Haitian intellectual production and policy after independence continued to represent a thoroughgoing and critical engagement with antislavery and rights discourses then developing and circulating in the Atlantic world. But it was one thing to do that intellectual and political work; it was quite another to have that work recognized as part of a broader international debate.

⁶⁴ Michel-Rolph Trouillot, *Haiti: State against Nation—The Origins and Legacy of Duvalierism* (New York, 1990); Mimi Sheller, *Democracy after Slavery: Black Publics and Peasant Radicalism in Haiti and Jamaica* (Gainesville, Fla., 2000); Dubois, *Haiti*; Nicholls, *From Dessalines to Duvalier*.

Haiti's important interventions after 1804 appear to have been projected into something of a conceptual vacuum as far as dominant antislavery or rights thought was concerned. Perhaps that lack of resonance served Pétion well: it allowed him to declare Haiti as free soil within reach of major sites of enslavement without calling too much attention to his challenge and intervention. But the vacuum also amplifies the usual problems of historical research: there is little discussion of Pétion's application of Article 44 of the 1816 constitution in this case or in any other. In contrast to the judicial archive generated by European free soil, there is no cache of petitions and legal decisions to illuminate the thinking either of the political class or of the men and women who sought freedom from slavery by its means. Thus, even if the Haitian state saw itself as making a—*the*—critical intervention in broad debates about freedom and rights, it is not clear that the other participants in those debates acknowledged them or their intervention. And we live today at least as much with the legacies of that refusal of recognition as with the legacies of Haiti's contribution.

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