

MANUMISSION AND GENDER IN 18TH CENTURY SPANISH LOUISIANA: THE ROLE OF WOMEN IN THE ESTABLISHMENT OF A FREE BLACK SOCIETY

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The focus of this research will examine the background, culture, laws, and political climate of 18th Century Spanish Louisiana. By examining the law and politics of the time period in question the slave community's ability to gain manumission will be exemplified. The role women played in securing a place for themselves and their families in this three-tiered society will be highlighted.

The Spanish occupation of Louisiana began with the secret Treaty of Fontainebleau on November 3, 1762 and the public Treaty of Paris that was signed in 1763. As a result of France's defeat in the French and Indian War (1754-1763), also known as the Seven Years' War, the treaty declared Louisiana a territory of Spain and ultimately led to the end of French influence in North America. France gave up Canada in exchange for Guadeloupe from the British and without Canada the French had no incentive to stay in Louisiana, particularly because they predominantly viewed it as a financial burden. Therefore, Britain acquired Canada and the east bank of the Mississippi River and Spain gained New Orleans along with the west bank of the Mississippi River. Finally, Britain returned Havana to Spain in exchange for Florida. All in all, the territory extended from the Gulf of México to Canada and from the Appalachian Mountains to the Rocky Mountains.



Figure 1. Spanish Louisiana, 1762-1800.

Although Spain did not view their new territory completely as an economic burden as had France, they valued it more for strategic purposes. Louisiana served as a barrier to American invasion into Spain's mineral rich territories of what is now the southwest United States and México. As a result, it could be argued that because of their lack of monetary incentive, Spain did not dedicate enough resources to establishing the territory to become uniquely Spanish. With time, Spain did institute their laws and customs, but the atmosphere of the region would forever remain influenced by France. Hans Baade describes the population as being "culturally and socially oriented towards France, folkways and the living slave law was more French than Spanish" (44). Although many of the day-to-day dealings were perhaps rooted in the French legacy, society became familiar with Spanish law and in many instances used it to their advantage. For the above reasons and others, Louisiana was one of Spain's most liberal colonies.

Several factors contributed to the liberal tendencies of Louisiana and more specifically, New Orleans. Firstly, New Orleans was a port city and through its involvement in trade saw the coming and going of many people. The transient nature of most of its visitors and some inhabitants left an impression on the city. People from all over the world who stopped in New Orleans contributed in some way to the eclectic nature and culture of the city. It could be argued that this in itself influenced the city's libertine position regarding interracial interaction and miscegenation. There were strong demographic, political, and economic catalysts behind the intermingling of races and the advancement of a more progressive society.

The Law

Spain's laws were based on civil law, which had its roots in Roman law and Justinian law. Civil law valued the ideals of community property, principles of forced heirship and implied warranty, free alienation of property,

freedom of contract, protected rights of family and its members and simplified the laws of property and obligations (Haas 1). Civil law is supported by philosophy and principles, unlike common law, which has become the norm in the United States; it does not rely on precedent, trial by jury, or habeas corpus. The law practiced in New Spain relied on written works on the law and legal practice in Spain; the laws of Castile (*Nueva Recopilación de Castilla*) plus other legal codes also influenced it (Haas 3). Jurisprudence was based on the decisions of governors or *alcaldes*, those determining the laws were not necessarily legally trained, although a legal officer or a judge advocate could advise them. If an *asesor letrado* holding a royal appointment was sought for advice, the lay were not liable for negligence (Baade 57).

The law assumed that the natural condition of humankind was one of freedom and as such Spanish law allowed for the legal manumission of slaves in its colonies (Baade, 45). When Spain acquired Louisiana, laws were revised to conform to those of the rest of the empire. With regards to the treatment of slaves and free people of color, Spanish Louisiana codes made reference to *Las Siete Partidas* and the *Recopilación de Leyes de Los Reinos de Las Indias* as well as the Code Noir, Louis XV's Edit *Concernant Les Nègres Escalves à la Louisiane*, which had been issued for the French West Indies, but was introduced in Louisiana in 1724 (Baade 50-55). Essentially, with time Spain was able to establish its own formal legal system in New Orleans, which appears to have been favorable to the population of color. But, as Hans W. Baade claims, society was nonetheless, socially and culturally oriented towards France (44). In other words, that the slave law practiced on a day-to-day basis was actually more French than Spanish. This may have been the case in the rural areas, but New Orleans was different. The Spanish had a steady grasp of the day-to-day occurrences in the city, as is evidenced in the thorough records and archives they kept throughout that period. Every secular transaction or religious record was carefully notarized and archived.

The Royal Crown, it seems, reluctantly permitted the practice of slavery in its American colonies as a means to an end, both political and economic. Ideally, slave owners were expected to catechize bondmen in the Catholic faith in exchange for service and labor then set them free. Spanish slave law did not require that masters have official permission to manumit their slaves. Of course, this was not usually the case, but slaves were able to attain freedom by exercising their right to manumission if their masters did not give them it freely. They could either partake in *coartación*, that is, the act of self-purchase, or demand their freedom through litigation. *Coartación* involved the slave and master coming to an agreement on a price and then the slave would pay the specified amount. Once the sale had been recorded in notarial form and a fee had been paid for the sale contract, as had to be done with all sales and donations of slaves, the now free slave would receive a *carta de libertad* (Baade, 67). Litigation was typically resorted to when a master and a slave could not come to an agreement on an appropriate price for manumission, but for the most part they were able to agree on a price on their own. If an agreement were not made, the master would be summoned to court to answer a suit of manumission by the slave. This process required that slaves pay their masters the slave's worth as assessed by third parties, chosen by both the plaintiff and the defendant. Slaves also had the option to appeal to the Spanish tribunal to complain of cruelty by their masters. If the judge established "maltrato" he could take the slave away from the original owner and sell the slave to another master.

Spanish laws and their leniency toward manumission seem to have operated to the benefit of the Spanish. Politically, the Spanish regime faced pressure both internally and externally to relax its regulations and offer some flexibility to its population, especially the slave population. Being that Spain entered New Orleans, an established society, as an outsider it had to provide something to the people to gain their allegiance. One form of seeking the allegiance was by allowing the manumission of the slave population through self-purchase or manumission suits. By allowing slaves to become free, they reinforced their belief that the natural state of humankind was to be free. This, whether real or imagined, allowed people of color to feel as if they could attain a place for themselves in this society.

Externally, the French Revolution and its movement for liberty, fraternity, and equality influenced the Spanish regime toward a more liberal outlook because they feared their own citizens in the territory could be a threat by igniting revolution or revolt in the established government. They feared the possibility of a revolt by its large black population similar to that which had recently taken place in Haiti (Boyer and Spurling 2000).¹ The ability of slaves to buy or sue for their freedom could be seen as a way to appease the masses; if they were given an alternative to slavery perhaps they would not have to resort to such drastic measures as those taken in Haiti. Whether or not the Spanish truly felt compelled to free their black population is not the purview of this paper, what is known is that this policy of manumission was advantageous to slaves, the slave owners, and to anyone with a vested interest in the colony. The repercussions of the policy were not only political; they also helped advance economic ends.

Economically, the middle sector of society that free slaves came to inhabit was of great importance to the developing territory. Newly freed slaves were used to work in middle sector jobs; those that the Spanish did not want to do themselves, yet did not feel comfortable leaving to slaves. This trend was also encouraged by the shortages of skilled workers and frequent epidemics that the city faced. Overwhelmingly, these jobs included work in the militia, the purpose of which was to protect the territory from internal and external defense. Other positions filled by this new middle-sector work force were masonry, shoemaking, carpentry, and other artisan jobs. Although not clear if women were meant to be part of this “free” work force, they nonetheless established their own place for themselves within this economic system. Free blacks came to develop their space in society, but with this development came their separation from their black roots and the beginnings of their identification with whites.

Researchable Question

The researchable questions of this research project ask:

Who attained freedom? That is, who were these people who sought to gain freedom for themselves and their families in spite of extreme adversity and against all odds? Secondly, what did they do once they were free? What was their role in securing a place for themselves and others to follow? While conducting preliminary research I found that women were overwhelmingly securing their freedom compared to men and in doing so would go on to purchase other women more so than men, so then I asked, why do females purchase females rather than males? Specifically, when they have the means to do so, why do women overwhelmingly choose to manumit female kin versus male kin? I sought to explain why men purchased men or why women do not purchase their male kin when they have the resources. It will be assumed that male slaves had greater economic income opportunities and, thus, were able to save more money for the purchase of their manumission, whereas female slaves were more likely to be granted their freedom by masters or assisted in acquiring the means for purchasing their freedom by others. It will also be assumed that manumission suits were initiated at higher rates by males than females. Additionally, the literature informs that female purchasers obtained much of their wealth from whites most often white men. Why then didn't they use this wealth to purchase male kin? To find answers to these questions, Spanish slave law and manumission suits in Spanish Louisiana will be examined to determine the factors contributing to the freedom of black slaves and whether they were considerably distinct for men and women. A preliminary review of the sources suggests that both male and female black slaves were familiar with aspects of Spanish slave law (Boyer and Spurling 2000; Landers 1999, 1996; Hall 1992; Klein 1986; Haas 1983), in particular, that slaves were allowed to purchase their freedom.

In doing a preliminary review of the literature on Spanish slave law and the manumission of slaves of color in Spanish Louisiana I found that the literature has primarily focused on male subjects. Only recently, in the last ten years or so, has this research turned its attention to female subjects (Hanger 1996, 1997, 1998). Historians have, throughout the years, relied on male-centered sources as their basis of analysis. They have claimed that there are no records available for women. This lack of study in the area of women in Spanish New Orleans is impressive being that the Spanish such kept extensive records of both political and religious matters. Although women appear throughout the records, in particular for their actions of resistance, they have not entered the literature. It could be that the characters of these women are difficult to decipher being that they did not fit into the colonial mainstream model that was being imposed on them. Their place in informal and underground sectors makes them invisible and unable to be measured by regular standards.

Perhaps their actions have not been what scholars have been looking for, possibly because history was and continues to be viewed through the lens of the masculine eye. Women typically did not fit the same standards or work in “valuable occupations” as men did to be deemed worthy of having their voices heard. An interesting point made by Blanca Silvestrini regarding the history of women states that historians have claimed that there are no sources to examine the history of women. In reality, there are, except that many times it has been recorded and preserved differently than that of men (166). To understand the role of women and bring their histories to light, scholars need to change their approach and look outside of a male-centered mind frame.

The histories of women offer a colorful illustration of the past, versus the “black and white” stories based on men that abound. In particular, the records of women in 18th Century Spanish Louisiana were of significant importance at the time, and continue to offer a wealth of knowledge concerning the reality of the period. After all,

women of color composed half of the slave population and two-thirds of the free black population (Hanger 1989 65). Aside from making up a large portion of society, the role of free women of color in New Orleans society permeated to almost every level of daily life, for blacks and whites. During the Spanish period the white population doubled and the slave population grew by 250%. Between 1763 and 1803, the free black population rose from 1,135 to 9,000, and during 1769 to 1803 it increased 16 fold with women outnumbering men two to one (Hanger 1989 65). Women were a very influential group in eighteenth century Spanish New Orleans. They were instrumental in the establishment of a free black society.

Women understood their role in 18th Century Spanish society, but also how to work within the system to use it to their advantage. Through the use of the legal system, relationships with white men, business endeavors, and family and friend networks, women of color were able to not only make the avenues to freedom possible but also create the beginnings of an influential free black social group. Since Spanish slave law made manumission a viable choice, women made use of their options of *coartación*, buying their freedom, or of suing for their freedom. For the most part women could secure their freedom with out having to resort to a trial. Women had an advantage in this situation because bondwomen usually secured freedom easier than bondmen, manumission usually favored women (Hanger 1996a 46). Perhaps this was due to the fact that nine out of ten masters were white and three out of four were male (Hanger 1997a 32). Generally, masters would hold on to slaves that were valuable to them in their businesses, meaning that if a majority of the masters were male they would more than likely want to keep their male slaves. That being said, it appears that male owners were more willing and financially able to free their slaves, in particular females. Overall, the relationships women of color had with white men were vital in securing wealth, influence, as well as establishing ties to the white community.

Many black women developed close working and intimate relationships with white men. As a support system these men contributed money out rightly to secure freedom for their female consorts and their families and friends, provide societal protection, and donate estates via their wills. On the intimate level, these women cohabited with, married, and had children with white males at very high rates. Statistical evidence taken from the "1778 House Census" has come to support the idea that these unions were many times consensual and not completely one-sided and exploitative on the side of the white man. Since as the age category went up the white male population rose and among blacks and mulattos the population of women did, it makes sense that the union of white men and free black women was bound to happen. Among Blacks between the ages of 14-50 the gender ratio was 16:100 and 17:100 for those ages 50 and above (Hanger 1989 68). It seems as if these circumstances would change the meaning or stigma associated with inter-racial relationships. As the number of black women increased and the availability of black men decreased, white men and black women had increasingly more interaction, which led to the normalization of their relationships. Although interracial concubineage was seen as an "inferior form of mating", the social demographics at the time made it unavoidable. Women could have also participated in interracial relationships in order to secure material advantage and a lighter phenotype for future generations (Hanger 1997b 227).

As a way to acquire the financial means to purchase their freedom, women of color relied on methods such as working for wages, business enterprises, inheritances, and donations from whites. A readily used means was to take on a side job. For the most part, masters would allow slaves to work on their days off and keep most of that income. Women typically worked as laundresses, seamstresses, nannies, and also as vendors. An important aspect of their work as vendors in businesses is that they came to acquire marketable skills as well as ties and good reputations within the white community. Over time they would save their wages and purchase their freedom in one large payment. Another option that slaves were able to negotiate with their masters was the temporary acknowledgement of their freedom while they made payments or worked for their purchase price. They would not be formally recognized as free or be given their *carta de libertad* until the slave had paid their entire purchase price to their masters. It is important to keep in mind that each woman's situation was unique and their method of accumulating their payment for freedom could have solely been a result of their earned wages, a total donation from a white acquaintance, or inherited through the will of a master, perhaps even a combination of all of the above.

As an increasing amount of women of color acquired their freedom, they began to build strong kin networks. These women became the linkages to the free community that those that remained enslaved needed. Free women of color used their newly acquired connections and ability to acquire wealth to spread manumission among their friends and family. Many worked hard to save enough money to purchase their loved ones. For example, in 1777 females made up 67.9% of the free black population but bought 77.8% of slaves bought by free blacks from 1771 through 1773 (Hanger 1996a 50). Many women made use of this opportunity to bring freedom to their relations,

regardless of the personal costs they incurred and restrictions this placed on their prospering. Conversely, several others purchased their relatives but did not free them. Some choose to keep them in their own households to help in their business endeavors but others participated in slave speculation. The women that participated in this practice would purchase slaves at a low price and then sell them at a higher price therefore making a profit for themselves. Speculation not only enabled free women of color to amass wealth but also elevated their social status. Slave ownership by former slaves began the process of separating themselves from their past, they began to become assimilated into white society.

Free women of color in eighteenth century New Orleans, “Operated from an undefined, anomalous position, the middle section of a three-tiered hierarchy in which they were not truly free or slave, often not pure black or white”(Hanger 1998 545). Many were envied by white women and slaves alike because of their economic independence and their relationships with white men. Free women of color had the choice of whether they would marry or not and even of the type of relationship they would have. When they did choose to marry, they had more control in who they would marry. Free women of color swayed in and out of the socially dictated lines of propriety. There were protections, or *patria potestad*, that were applied to white women, and to some level slave women by the patriarchal structure, which did not allow for this type of choice. *Patria potestad* is the authority exercised by the male head of household and within this concept can also be found the long held beliefs that women should marry honorably, produce and raise children, and retreat from public life (Hanger 1997b 220). Living outside of this socially constructed system, in and of itself was a challenge to authority.

A very influential factor in determining the success of free black women in attaining their freedom and then proceeding to share their riches with others was their gender. Two main determining factors secured this success, their relationship to white men and the demographics of men and women of that time. These two forces largely determined how these women became free, who they would manumit, how they would get the means to do it, who their support system was, and to whom they would pass on their wealth.

Kimberly Hanger explains that free women of color’s drive to manumit themselves and their family and friends as a means to fight oppression and assert their identity, along the way building “stable, long-lasting unions that produced children and cemented kin networks; prosperity for themselves and future generations; and respect as hardworking religious members of the community” (Hanger 1998 546). Through working relationships free women of color established themselves as businesswomen and built an economic foundation for themselves. This was an especially difficult task considering the many obstacles that were put in their way. They were seen as a threat to the already existing community, in economic terms as well as by socially challenging the roles of women. Legislation was even established to make it difficult for women to conduct their business. They participated in commerce and retail but were harassed by shopkeepers. Merchants even appealed to the *cabildo* to prohibit their commercial activities. They owned and rented out urban property “at rates higher than their proportion of the total and even free population, and at rates much higher than white women although not as great as white men. While comprising about one out of seven of residents (200 of 1,408) and 1 of 5 free inhabitants (200 of 1,043), free black women owned almost one-third the houses in the district (69 of 231). Comparable figures for white women were less than 1 of 10, 1 of 8, and 1 of 8 respectively (Hanger 1998 549).

Free women of color were active participants in the city’s economic, familial, and cultural life. They participated as retailers, business owners, producers, and consumers. They bought, sold, borrowed, loaned, rented, and exchanged real estate, personal property, slaves and services. Some inherited, accumulated and transferred to their heirs sizable estates (Hanger 1996b 156). These women faced “great odds, some failed, but enough succeeded so as to provide inspiration for their own and future generations of free and enslaved women of African descent” (Hanger 1996b 177). In spite of not being able to read these women showed an extraordinary ability in business intelligence and understanding the legal system. In times and instances when their actions and voices could have been silenced and reprimanded they continued with their objective in mind, to build a place for themselves and their families in a three tiered society.

These women attacked the sexist, patriarchal, racist, authoritarian system through the use of petitions, judicial procedures, slander, insults, arson, and assault and battery. In spite of their subjugated status in society as women of color and former slaves, these women worked very hard to secure a successful place for themselves and their family and friends and were triumphant in the process. Like other oppressed groups throughout history, they used the established system and attempted to make it work for them. They emphasized their roles in the family, as hard

workers, in conducting business transactions, promoting orderly conduct, church attendance, property accumulation to manipulate the sentiments of the court and conversely relying on their image of poor, laboring mothers whose primary responsibility was to their families, as well as their powerful economic roles as heads of households and breadwinners. Most did not even like being referred to as free or *libre* they wanted the racial difference between them and whites to be eliminated. There was a desire to reform not revolutionize the system through individual and group efforts. Some women challenged the social norms by flaunting gold jewelry, headdresses, ornate clothes, and strolling down the levee and bayou at night. They operated businesses that competed with *libre* and white men, accumulated financial estates, brought before the justice system abusive spouses and strangers. In these and other ways they established themselves by realizing what society valued and assimilated to the prescribed system, in other words, they formed stable relationships with men and women, white and black, bore, baptized, raised, and educated their children, and secured property and patronage for future generations.

The legacy of an established government appears to have made the greatest contribution to the attitude toward slavery and manumission in a given territory. In the Spanish period, it was Spain's leniency toward manumission that allowed for the development and expansion of a free black society. With the growth of this social group arose a new consciousness that, presumably, would not be easily abolished. In the future, it would be interesting to examine how this free black society dealt with the transition in rule, from a lax Spanish administration to an aggressive American government, in terms of their attitude toward slavery.

Notes

¹ Consider the case of Pedro Bailly, a free black activist, who promoted equal rights for his people (Hanger 1993). Although Pedro was an ideal citizen who assimilated into Creole society and participated in the defense of Louisiana, he advocated for social justice clandestinely among slaves. This exemplifies the influence of the French Revolution in slave conspiracies by free slaves who exploited assimilation strategies particularly to disseminate provocative information with the intent to promote rebellion. Without the protection of Spain, free blacks were continually attacked and disenfranchised especially when they came under the rule of the United States.

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