

NORTH and SOUTH AMERICAN SLAVERY

Slavery, as it existed in British North America, contained interesting points of comparison and contrast with the slave system existing in Portuguese and Spanish South America. Although both institutions were geared to the needs of capitalistic agriculture, the rights and privileges of the South American planter were restricted and challenged at many points by the traditional powers the Crown and the Church. On one hand, capitalism, unimpeded by other powerful institutions, created a closed slave system which regimented the totality of the slave's life. On the other hand, through the clash of competing institutions, the slave has been left with a little opportunity in which he could develop as a person.

Both Spain and Portugal had had continuous contact with slavery extending back into ancient times. Roman law as well as the Church fathers had concerned themselves with it, and these concepts had been incorporated into Spanish and Portuguese law. Also, slaves continued to exist in both countries down to modern times. Therefore, when Portugal began importing slaves from West Africa in the fifteenth century, the institution of slavery was already in existence. Before long, significant numbers of African slaves were to be found in both Portugal and Spain. When the South American planters began importing slaves, slavery already had a framework and a tradition within which the planter had to operate.

The Spanish Crown devoted a great deal of time and energy to the supervision of its overseas possessions. Instead of permitting considerable local autonomy as the British did, the Spanish Council of the Indies in Madrid assumed a stance of illiberal, paternal, bureaucratic control. From the point of view of the colonial capitalists, the cumbersome royal bureaucracy was always involved in troublesome meddling which impeded their progress. As part of the careful management of its colonies, the Crown strove to control the operation of the slave trade. Similarly, it was concerned with the treatment of the African slaves within the colonies. The Spanish Crown included the slaves as persons instead of relegating them solely to the status of property at the disposal of their owners.

The Church, as a powerful institution, jealously guarded its right to be the guardian and protector of social morality. Besides being concerned with influencing individual behavior, the Church insisted that it was a social institution with the right to interfere in matters relating to public morals. In fact, it was through this role that the Church was able to exercise its worldly powers. While condemning slavery as an evil and warning that it endangered those who participated in it, the Church found it expedient to accept slavery as a labor system. However, it insisted that the African slaves must be Christianized. Missionaries were sent to the trading stations on the African coast where the captives were baptized and catechized. The Church feared that the purity of the faith might be undermined by the infusion of pagan influences. Then, when a slave ship reached the New World, a friar boarded the ship and examined the slaves to see that the requirements had been met. The Church also insisted that the slaves become regular communicants, and it liked to view itself as the champion of their human rights.

The degree to which the individual rights of the slave were either protected or totally suppressed provides a clearer insight to the differences between North American and South American slavery. The laws outlining the rights of slaves have been traditionally placed into four categories: term of servitude, marriage and the family, police and disciplinary powers, and, finally, property and other civil rights.

In both systems the term of servitude was for life, and the child's status was inherited from its mother. Children of slave mothers were slaves, and children of free mothers were free regardless of the status of the father. Inherited lifetime slavery was the norm.

Manumission--granting freedom--was infrequent in British North America. Occasionally, masters who had fathered slave children would later give them their freedom. A few other slaves were able to purchase their own freedom although, strictly speaking, this was a legal impossibility. The slave was not able to own property according to the law, and this meant that the money with which he purchased his freedom had always belonged to his master. Obviously, he could only do this with his master's fullest cooperation.

In South America, however, manumission was much more frequent. This practice received highly favorable social sanction, and masters often celebrated national holidays, anniversaries, birthdays, and other special events by manumitting one or more of their favorite slaves.

The law also defended the right of the slave to purchase his own freedom. He had the right to own property and could accumulate funds with which he might eventually achieve his dream. He also had the right to demand that his master or the courts set a fixed price for his purchase which he could then pay over a period of years. Sundays and holidays were for the slave to use as he saw fit, and, in some cases, he was also guaranteed a couple of hours every day for his own use. During this time he could sell his services and save the proceeds. The law also stated that parents of ten or more children were to be set free. Finally, slaves could be freed by the courts as the result of mistreatment by their masters.

While there was much sentiment in North America supporting marriages among slaves, and there was much animosity against masters who separated families through sale, the law was unambiguous on this point. Slaves were property, and therefore could not enter into contracts including contracts of marriage. Jurists also noted that to prevent the sale of separate members of a family would lower the sale price, and this was to tamper with a man's property. Therefore, property rights had to be placed above marriage rights. In contrast, in South America the Church insisted that slave unions be brought within the sacrament of marriage. The Church also strove to limit promiscuous relationships between slaves as well as between masters and slaves, and it encouraged marriage instead of informal mating. Also, the law forbade the separate sale of members of the family, husband, wife, and children under the age of ten.

The general thrust of the laws outlining police and disciplinary powers in North America was to entrust complete jurisdiction to the master. One judge had laid down the law that the master's power must be absolute in order to render slave obedience perfect, and, although the courts were empowered to discipline slaves in certain situations, the masters generally acted as judges, juries, and dispensers of punishments. In those rare cases where the law did protect the slave against extreme mistreatment, its protection was nullified by the universal proscription against any slave or Black person testifying in court against any white. The court also had assumed that it was irrational for a man to destroy his own property, and, therefore, it was impossible for a master to commit premeditated murder against one of his own slaves.

However, in South America the court exercised much more Jurisdiction over the slave. Crimes committed by a slave were prosecuted by the court, and, if a slave was murdered, this case was prosecuted by the court as if the victim had been a free man. The law also made a more concerted attempt to protect the slave against mistreatment by his master. A certain type of state lawyer was an official protector of the slaves; he received regular reports on slave conditions from priests as well as from special investigative officials who had been appointed by the state for this purpose. Mistreatment could lead both to the freedom of the slave and to the imprisoning of the master. The law had devised an ingenious system whereby the fine was divided equally between the judge, the informer, and the state treasury.

Finally, the slave in North America could not own property and had absolutely no civil rights. The law clearly stated that he could neither own, inherit, or will property nor engage in buying and selling except at the pleasure of his

master. In contrast, the slave in South America could own property, could engage in buying and selling, and was guaranteed Sundays, holidays, and other times which to work for his own advancement. In short, the law implied that while the master could own a man's labor, he could not own the man as a person.

It is not easy to make a final comparison between these two slave systems. South American masters often evaded the law and would be exceedingly brutal, and North American masters were often much more lenient than the law required. Conditions moreover, were usually more severe in South America, and this fact may have worsened the actual material situation of South American slave. Nevertheless, in North America the slave was consistently treated as a "thing." In South America there was some attempt to treat him as a man. This fact made a profound difference in the way in which the two systems affected the slave as an individual, and in the way in which they impinged upon the development of his personality.