European anti-slavery legislation, international treaties and constitutional change

The primary aim of most nineteenth-century abolitionist campaigns was to make slave trading and slavery illegal. Campaigns to achieve this goal began with the testimonies of those who had experienced or witnessed slavery. These reports were publicised and developed through campaign tactics such as pamphlets, articles and public meetings. European supporters of abolition hoped to put an end to the slave trade and to slavery itself, firstly by making them illegal under national and international law and secondly by ensuring that these laws were properly enforced. The legal and justice systems were viewed as important weapons in the struggle to end slavery, and thus the strategies of abolition campaigners concentrated initially on changing the law. However, the abolition of slave trading and slavery in colonial territories under European control was subject to a number of limitations, and often did not have quite the impact that campaigners had envisaged. Colonists resented laws imposed upon them by distant European parliaments, and these were often ignored or badly implemented in practice. Abolition through legislative and constitutional change did not solve the problem of the illegal trade in slaves, nor did it prevent the establishment of systems of indenture and forced labour in Europe's colonies. The lives of the former slaves were not substantially improved in many cases, as their freedom was strictly regulated.

This essay examines the relationship between slavery, abolition and the law, focusing on the possibilities and the limitations of legislation in a European colonial context. It considers the impact of the politics of anti-slavery on foreign relations and international treaties and the slower process of changing national laws and constitutions. The essay gives an overview of European treaties and subsequent legislation abolishing slave trading and slavery, from the first abolition of the slave trade by Denmark in 1792 to the abolition of colonial slavery by Spain in 1886. It then focuses on how European abolition movements attempted to use existing frameworks of national and international law to campaign for change, and on how far these campaigns succeeded in changing legislation over the course of the nineteenth century.

The abolition of the slave trade in international legislation

The slave trade held a prominent legal and political status in late eighteenth and nineteenth-century Europe. In Britain it had commercial and economic implications, particularly for the leading ports of Liverpool, London and Bristol, and in France, for Nantes, Bordeaux and Le Havre. As large numbers of slave ships left European ports, it was hard to dismiss the trade as a remote concern, only relevant to the colonies. The transatlantic trade was also an important diplomatic issue for Europe which affected foreign policy relations between Britain, France and the other powers. All of these factors contributed to an initial political focus on ending the trade before the issue of abolishing slavery was approached. The slave trade was first abolished by Denmark over a ten year period between 1792 and 1802, and other European countries subsequently passed laws and signed international treaties agreeing to put an end to the slave trade in 1807 (Britain), 1814 (the

Netherlands) 1815 (Portugal, Spain and France), 1817 (Spain and France), 1818 (France and the Netherlands).[1] Illegal trading by European ships to the West and East coasts of Africa continued throughout this period, however.

There were multilateral attempts to end the slave trade, such as the 'Declaration of the Powers on the Abolition of the Slave Trade', which was signed at the Congress of Vienna by the representatives of Austria, France, Britain, Prussia, Portugal, Spain, Sweden and Russia on 8 February 1815. The Declaration condemned the slave trade as "a scourge which has so long desolated Africa, degraded Europe, and afflicted humanity", and called upon "all the powers of Christendom" to unite in opposition to the trade, based upon shared moral and religious values and the common 'civilisation' of the countries of Europe.[2] The role of public opinion in forming policy and legislation related to the slave trade was also explicitly recognised by the Declaration, which describes the slave trade as contrary to "the public voice in all civilized countries".[3] However, despite the principled objections to slave trading formulated by the diplomats at the Congress, this agreement was not backed up by any substantial action against slave trading, due to the lack of unity and resolution among European countries on the issue.

In the period following the Congress of Vienna, Britain played a key role in pushing for the abolition of the slave trading activities of other European powers. After the public outrage over the 1814 Peace of Paris agreement, which had initially permitted France to continue trading in slaves to Africa over a five year period, there was strong opposition in Britain to allowing any more concessions on the issue of the slave trade.[4] The enormous petition against the French slave trade which was signed by ten per cent of the British population in 1814 contributed to maintaining pressure on the government over the issue of the slave trade. This public pressure then culminated in a series of treaties and financial compensation to Spain and Portugal, delivered by Britain in exchange for an agreement to gradually cease their slave trading activities. A treaty signed by Britain and Spain in September 1817 agreed that Spain would no longer purchase slaves in Africa north of the Equator after 1820, and that in exchange, Britain would pay £400,000 compensation.[5]

Britain's navy also took the lead in policing the continued illegal slave trade in the nineteenth century in the Atlantic and Indian oceans. Most of the treaties signed from 1814 onwards that restricted or outlawed slave trading included some provision for policing the trade, such as mutual right of visit and right of search on board ships of both signatories that were suspected of trafficking in enslaved Africans. Legal guidelines were established by Britain to justify capturing a ship on suspicion of slave trading. These included extra planks on board to build slave decks, chains, handcuffs and other instruments of torture, or more water, food and larger cooking pots than would normally be required for the use of the ship's crew.[6] Mixed Commission Courts were also set up on the coast of Africa and in key locations within the Americas, such as Havana and Rio de Janeiro, for the trial of slave traders captured under the terms of the treaties. The public response to these treaties in countries such as Spain, Portugal and France, was generally negative, as it was felt that Britain was using its dominant naval position to force through legislative changes and potentially ruin their colonial trade. The outrage generated by Britain's policing of the trade can be seen in the title of the pamphlet published in 1840 by the Portuguese consul in Britain: *Rights of Portugal, in reference to Great Britain, and the Question of the Slave Trade: Or, the Manifesto and Protest of the Weak, against the Ingratitude, Oppression, and Violence of the Strong*.[7]

The appropriate sanctions for slave trading were also debated during the first half of the nineteenth century. In France, Abbé Grégoire called for the public disgrace of illegal slave traders in his 1822 pamphlet, *Des peines infamantes à infliger aux négriers [Penalties to be inflicted in order to shame the slave traders]*.[8] During the first half of the nineteenth century, the slave trade was declared a form of piracy punishable by death and a series of treaties opposing the trade were signed between Britain and dozens of other countries around the world, including European countries like the Netherlands, Sweden, France, Denmark, Spain, Portugal, Austria and Prussia, as well as treaties with independent American nations such as Brazil and Argentina.[9] Yet by the 1840s, criticism of this policy was growing across Europe. Abolition was criticised as ineffectual and the presence of the naval patrols as costly and counter-productive, serving only to force slave traders to take longer, more circuitous routes, and thus increasing the suffering of the enslaved Africans on board. Abolitionist writings published in the 1840s were increasingly pessimistic about the effectiveness of the naval patrols in guarding large stretches of the coast of Africa.[10] Campaigners like Thomas Fowell Buxton encouraged treaties with African leaders and suggested that the trade should be suppressed at its source, rather than by ships on the coast. Treaties for the suppression of the slave trade began to be signed by Britain with leaders from areas of West Africa such as the Gambia, Cameroon and Calebar from 1841 onwards.[11] Despite this shift in policy, European naval patrols against slave trading continued into the late nineteenth century.

The abolition of colonial slavery

While the problem of the slave trade was approached through international law, congresses and treaties between the European powers, colonial slavery was initially viewed as the concern of the individual state. The body of legislation that applied to the colonies of each European power included laws regulating slave ownership, such as France's 1685 'Code Noir'. This was part of a broader imperial policy, which imposed metropolitan legal structures on an isolated colonial context. This policy of maintaining legislative control over the colonies from a distance was resented by many of the inhabitants, particularly when they were excluded from full representation within the political system. It also contributed to a widespread ignorance about the colonies in Europe.

Legally as well as politically, colonial slavery was understood as an exception to national law. This was the case for nineteenth-century imperial powers such as France, Portugal and Spain, whose colonies were governed by "special laws" or "*leyes especiales*".[12] The Danish and Swedish constitutions were silent on the subject of both colonies and slavery. The constitution of the Netherlands provided for the governance of the colonies under crown control, but also by separate laws: "The law regulates the government of these colonies and possessions. The monetary system is regulated by the law. Other objects concerning these colonies or possessions are regulated by the law as necessity dictates".[13] As will be shown, although slavery was abolished throughout Europe over the course of the nineteenth century, the impact of this new legislation on national and constitutional law was limited.

Campaigners for abolition attempted to promote national debate on the issue of slavery by making their case in legal terms. Abolitionists made considerable use of national legislation in order to prove the incompatibility of slavery with legally-binding principles. One common argument was that slavery was unconstitutional and that the slave trade was contrary to the law of nations. This was the case for the French abolitionist *Société des Amis des Noirs*, which in 1790 attempted to make use of legislation being created by the revolutionary government in order to press for change in the colonies. The Society responded to the new 'Declaration of the Rights of Man and of the Citizen' with an address to the National Assembly that caused a scandal. The abolitionists reminded the National Assembly that the first article of the Declaration: "All men are born and remain free, with equal rights", was incompatible with the existence of slaves in the French colonies: "citizens of the same Empire and men like us, they have the same rights as us".[14] The power of their legal position was immediately recognised by the pro-slavery lobby, which launched a sustained political attack on the Society.

The force of this simple point was so strong that even French supporters of slavery were pushed to recognise that the Declaration had formally outlawed the trade in its first seven words: "all men are born and remain free". In 1790, the conservative parliamentary representative André de Mirabeau published a pamphlet in support of the French maritime cities that were calling for a royal decree guaranteeing the future of their slave trading activity and colonial commerce: "I know that this decree would contradict the declaration of the rights of man that you have placed at the head of your constitution; but are you sure you didn't make a mistake in drawing up this declaration? Have you not made a manifest error in confusing 'man' with 'citizen'?"[15] Debate around the legal definitions of "man" and "citizen" had already raged in parliament after the colonists of Saint Domingue had attempted to include their slaves as citizens of the colonies in order to increase their own proportional representation in parliament. This had prompted the more famous Comte Honoré de Mirabeau to ask in July 1789: "are the colonies claiming to include their slaves and their people of colour in the category of men, or that of beasts of burden?" If the former, Mirabeau suggested, the slaves should first be freed.[16]

The Revolution had made the 'Declaration of the Rights of Man and Citizen' part of French national law, yet the slave colonies were an obvious exception to this law that the *Société des Amis des Noirs* attempted to highlight. The subsequent controversy over colonial slavery was focused on whether the same legal system applied throughout the French Empire. After fierce debate from both sides, the solution found by the French parliament was to avoid the problem by making the colonies a constitutional exception in 1791: "Although the colonies and French possessions in Asia, Africa and America constitute part of France's empire, they are not included in the present constitution".[17] This did not solve the issue, however, and in the same year revolution broke out among the slaves in Saint Domingue. The ensuing struggle put further pressure on the French parliament, and eventually led to the abolition of slavery by France in 1794 (later reversed), and the inclusion of the colonies in the 1795 constitution: "The French colonies are an integral part of the Republic, and are subject to the same constitutional laws".[18]

The French debates over whether colonial slavery was acceptable under the terms of the constitution in the 1790s demonstrate the particular importance of constitutional law in France at the time, the national significance of the 'Declaration of the Rights of Man' and the influence of

revolutionary ideals of Liberty, Equality and Fraternity. However, it is worth noting that abolitionists in other countries later attempted to use the tactic of appealing to the constitution in order to call for the legal abolition of slavery. For example, in Spain the problem of constitutional law was raised in debates over the abolition of slavery in the 1870s. In a speech to the Spanish Abolitionist Society in Madrid, the Liberal politician and anti-slavery activist Rafael de Labra described how slave owners in Puerto Rico were opposing abolition by citing article fourteen of the Spanish constitution, which established their right to private property. De Labra countered the claim of these owners by pointing out that according to the same constitutional law, slaves should be able to claim their basic human right to liberty. Article two of the Spanish constitution stated that everyone had the right not to be detained or imprisoned without just cause. If this law were properly enforced, he argued: "the existence of a single slave on Spanish territory would be impossible".[19]

Legislative change and the problem of gradual abolition

For the majority of European powers, legal change on slavery was a gradual process. Even among supporters of abolition, it was generally considered that before slavery could be completely erased from colonial law, there needed to be progressive legislative change in these statutes, which would tighten regulations applying to slave owners and improve the conditions of the enslaved. The legal status of slavery in the colonies was noted as a problem by the British lawyer and abolitionist James Stephen. In his 1802 book, *The Crisis of the Sugar Colonies*, Stephen argued for a reworking of the legal relationship between Britain and the West Indian colonies. He stressed that the existing legislation denied slaves any kind of legal protection. He also pointed out that slaves were barely mentioned in the statutes guaranteeing the rights, protections and responsibilities of the inhabitants of the colonies, despite the fact that they made up the majority of the population. The exceptions to this absence were found in the colonial system of punishment designed to exercise control over the enslaved:

> "The slaves have been by no means forgotten by these local legislatures. You will find them on the contrary to have been a very frequent subject of attention: but where their name occurs in the outset of a section, you will be sure to find stripes or death at the end of it".[20]

Forty years later, in his 1842 exposé of French Caribbean colonial slavery, Victor Schoelcher similarly argued that according to the legislation of the colonies the slave had no individual legal status, and that the owner's right to dispose of the slave always prevailed: "the law is mute", and "the slaves are made entirely dependent on their masters, without any real means of defence".[21] The ongoing aims of the campaign for the gradual abolition of slavery were therefore firstly to promote the protection of the enslaved within the existing colonial legislation, and secondly to gradually extend legal rights to slaves within the broader framework of national law.

Greater legal regulation of the enslavement, transportation, sale and maintenance of slave populations in the colonies was seen as a first step by many European campaigners, even if their

ultimate goal was complete abolition. During the decade after the British slave trade had been abolished in 1807, James Stephen and William Wilberforce campaigned for a register of slaves in the British colonies that was intended to reduce abuses within the plantation system, as well as making smuggling of slaves between colonies or a continued illegal trade from Africa more difficult. This acknowledgement of the legal existence of slaves as individuals was mainly intended to increase the accountability of plantation owners, but it also had the effect of exposing abuse to public view, generating negative publicity for the colonists, and making the issue of slavery more prominent within political debate at home and abroad. In support of the concept of a register noting births and deaths among slaves in the colonies, James Stephen made reference in a speech to a "thick darkness of misrepresentation and error that obscures our colonial horizon from the eyes of statesmen in Europe",[22] thus emphasising the need for increased clarity on the applicability of British law to the colonies.

The abolition of slavery and constitutional law

The legal process of ending slavery in Europe's colonies began with the slave revolution in Saint Domingue, where the end of slavery was declared in 1793. It was formalised by the French National Convention, which officially abolished slavery in February 1794. However, the law passed by the Convention only survived eight years, and under pressure from the merchants and colonial lobby, legal slavery was reinstated by France in 1802. For the next three decades, slavery was legal and practised in all European plantation colonies, despite an increasing number of restrictions. Then, in 1833 the British parliament passed the Slave Emancipation Act. This was a turning point in European colonial legislation, and was termed the great or mighty experiment.[23] Supporters of slavery could dismiss the French experience of abolition at the turn of the century as an extreme revolutionary venture, destined for failure. However, they could not ignore this major policy shift on the issue of slavery in the British Empire. Legislation abolishing slavery was subsequently passed over the course of the nineteenth century by the other European imperial powers, including Denmark in 1847, France and Sweden in 1848, and the Netherlands in 1863. The last European country to pass legislation abolishing colonial slavery was Spain, where slavery continued in Puerto Rico until 1873 and in Cuba until 1886.[24]

In addition to Europe's imperial powers which all passed laws abolishing slavery within their colonial territories in the nineteenth century, other European countries also began to pass legislation against slavery within their own national borders. Greece explicitly outlawed slavery in its national constitution in the nineteenth century, primarily in reaction to the neighbouring Ottoman Empire: "No one in Greece can be bought, nor sold. A serf or a slave of any sex or religion is free as soon as he sets foot on Hellenic soil".[25] Legislation was also passed in Wallachia and Moldavia (later Romania) in 1855-56 outlawing the enslavement of the Gypsy minority.[26]

The issue of slavery and the law in nineteenth-century Europe was complicated by the legal status of the colonies. Most European imperial powers abolished slavery via the system of exceptional laws in operation in the colonies, rather than publicising abolition on a national level, through a change in

constitutional law. Across the Americas, independent countries such as Haiti, Chile, Argentina and the United States outlawed slavery under the terms of their constitutions, whereas European imperial powers diverted the legal problem of abolition into "special laws" and "colonial exceptions". France was the only European imperial power to make a public declaration against slavery by prominently writing the 1848 law of abolition into the national constitution.[27] European governments tended to avoid legislating for either the long-term preservation or the abolition of slavery and the slave trade on a constitutional level. They preferred it to remain an unspoken or hidden part of national legislation, confined to the colonial statutes. Although colonial slavery continued throughout the nineteenth century, no European constitution ever recognised the role of slavery within the national economy, or suggested that it should continue to underpin the social and economic structure of the colonies. Slavery was simply not mentioned in most constitutional documents, which tended to sideline colonial issues and refuse to recognise slaves as citizens.

The reluctance to recognise slavery as a permanent element within constitutional law was common to the legal systems of all European countries that possessed plantation colonies. Instead they tended to direct the legislation of colonial slavery into the domain of the 'special law' or temporary legal exception. As Josep Fradera has noted in an article on 'Slavery and the constitutional logic of Empire', the special law was the most common legal situation for nineteenth-century colonies: "the notion of exceptionalism has dominated political colonial relations".[28] Exceptional colonial legislation took away from the idea of slavery as a question of national or universal importance, and made it almost a specialist concern, of interest only to those who had particular interests or expertise in colonial matters. Exceptionalism also had the effect of making the enslaved more vulnerable within colonial legislation and limiting their access to national courts of law.

Although the silence on the issue of slavery within constitutional law was a problem to a certain extent for the anti-slavery movement, campaigners were also able to benefit in many ways from the ambiguous legal position of colonial slavery. Abolitionists could take advantage of the lack of a firm constitutional standpoint on slavery to promote their own political ideas. This silence also offered the possibility for change in the future. The Spanish abolitionist Rafael de Labra stressed in his 1869 pamphlet *La abolición de la esclavitud* that although slavery had been temporarily permitted under the limited terms of colonial law, it was not part of the national constitution: "The law should by no means commit itself to an indefinite support that would oppose circumstance and the progress of ideas".[29] Labra saw constitutional legislation as a tool designed to respond to economic necessity, changing social norms, political ideas and the fluctuation of public opinion, without compromising the essential principles upon which national identity was based.[30]

Many abolitionists approached the problem of slavery and constitutional law from a long-term perspective in order to allow for change. The constitution was seen as a symbol of national identity, but it was also an evolving instrument of the public will that could eventually change to accommodate the abolition of slavery and the emancipation of the enslaved. However this flexibility also had some disadvantages for the abolition movement. The long-term timescale made the prospect of constitutional change a distant one, and any change in favour of the enslaved in the colonies could potentially be reversed. This was seen in the case of France, when Napoleon Bonaparte came to power, rewrote the constitution and re-established slavery.

To conclude, constitutional change was a major aim shared by abolitionist political campaigns across Europe, as this essay has suggested. Making slavery illegal according to the terms of the national constitution had huge symbolic value and implications for national identity. However, the extent to which the politics of anti-slavery ultimately influenced national constitutional law can be questioned. Even in countries which had abolished slavery on their own national territory, it was rare to see this law enter into the constitution as a permanent national principle. Only France and Greece formally institutionalised the abolition of slavery in their constitutions. Legal change concerning the slave trade and slavery did occupy a prominent place in nineteenth-century European political debate. However, in legal terms, slavery continued to be exceptionalised and relegated to colonial statutes. Abolitionist campaigners wanted to influence constitutional law, but this area of law remained largely inaccessible to the anti-slavery movement.

The most significant exception - the 1848 constitution of France - shared some common ideas and aspects of a common language with the anti-slavery movement, such as non-aggression towards the freedom of other peoples, the importance of obeying "moral laws" and the path of "progress and civilisation",[31] but it was not influenced directly by anti-slavery political campaigns. Article six outlawing slavery in the 1848 French constitution is non-moralistic and straightforward in its use of language, simply reading "slavery may not exist in any French territory".[32]

Interestingly, although national constitutional law was largely unaffected by the language of abolition, this was not the case for international treaties against the slave trade. Through diplomatic flourishes, the political rhetoric of anti-slavery was permitted to emerge. European abolitionism, with its uncompromising and moralistic language, exerted an important influence on European diplomacy at the Congress of Vienna. Abolitionism also influenced the language used in the dozens of international treaties signed in the first half of the nineteenth century. The 1824 treaty signed by Britain and the Kingdom of Sweden and Norway against the slave trade, for example, demonstrates the influence of the moralist abolitionist position, describing the slave trade as "a commerce degrading to humanity, and unworthy of a civilized age".[33] The focus on concepts such as 'humanity' and 'civilisation' in this European treaty against the slave trade is characteristic of European abolitionist political culture.

Despite the efforts of abolitionists to move the debate on slavery into the sphere of constitutional law, the direct impact of anti-slavery campaigns on Europe's constitutions was limited in the nineteenth century. However, the fact remains that slavery and slave trading were eventually illegal in all European national and colonial territories by the end of the century, and were not subsequently reinstated in law. A permanent legal change - albeit one outside of constitutional legislation - had occurred across Europe. Once the idea of a 'civilised' opposition to slavery uniting the continent permeated European politics, legal systems gradually adapted to the new anti-slavery consensus of the nineteenth century.

Kate Hodgson

Notes

[1] See Lewis Hertslet (ed.), *A Complete Collection of the Treaties and Conventions at present subsisting between Great Britain & Foreign Powers; so far as they relate to Commerce and Navigation; to the repression and abolition of the Slave Trade; and to the privileges and interests of the subjects of the high contracting parties* (London: T. Egerton, 1820).

[2] Lewis Hertslet (ed.), *A Complete Collection of the Treaties and Conventions at present subsisting between Great Britain & Foreign Powers*, vol. I, 11.

[3] Ibid., vol. I, 11.

[4] See the press reaction in 1814 calling for a firmer policy towards France over the issue of the slave trade, including *Observations on the late Treaty of Peace with France; so far as it relates to the Slave Trade* (London: J. Butterworth & Son, 1814), and *Remarks on that Article in the late Treaty of Peace, which permits a French Slave Trade for five years. From the Christian Observer for June last* (Kendal: M. Branthwaite & Co., 1814).

[5] *Tratado entre S.M. el Rey de España y de las Indias, y S.M. el Rey del reino unido de la Gran Bretaña é Irlanda. : Para la abolicion del tráfico de negros, concluido y firmado en Madrid en 23 de setiembre de 1817* (Madrid: Imprenta Real, 1817).

[6] *Instructions for the guidance of her Majesty's Naval Officers employed in the suppression of the slave trade* (London: T. R. Harrison, 1844), 221-22.

[7] 'Ananias Dortano Brasahemeco' (pseud.), *Rights of Portugal, in reference to Great Britain, and the Question of the Slave Trade: Or, the Manifesto and Protest of the Weak, against the Ingratitude, Oppression, and Violence of the Strong* (1840).

[8] Abbé Grégoire, *Des peines infamantes à infliger aux négriers* (Paris: Baudouin Frères, 1822).

[9] *Treaties, Conventions, and Engagements, for the suppression of the Slave Trade* (London: T. R. Harrison, 1844).

[10] See for example *Practical remarks on the slave trade on the West Coast of Africa, with notes on the Portuguese treaty* (London: Ridgeway, 1839), attributed to Captain Joseph Denman, and the testimony of the Reverend Pascoe Grenfell Hill, *Fifty days on board a slave-vessel in the Mozambique Channel, in April and May, 1843* (London: John Murray, 1844).

[11] *Instructions for the guidance of her Majesty's Naval Officers employed in the suppression of the slave trade* (London: T. R. Harrison, 1844), 113-29. See also the appendix to section seven, 'Draft of Engagement with the Chiefs of Africa' (225).

[12] An 1852 amendment to the Portuguese constitution specifies that Portuguese colonies may be governed by special laws if they wish. 'Charte constitutionnelle du Royaume de Portugal et Algarve', 29th April 1826, modified July 1852. In *Les Constitutions d'Europe et d'Amérique recueillies par M. E. Laferrière* (Paris: Cotillon, 1869), 488-510. Equally, under Spanish law, "Las provincias de Ultramar serán gobernadas por leyes especiales". Article 80, *Constitución de la Monarquia Española* (May 1845).

[13] 'Grondwet voor het Koningrijk der Nederlanden' (Fundamental law of the kingdom of the Netherlands), 1815, modified in 1840 and 1848. In *Les Constitutions d'Europe et d'Amérique recueillies par M. E. Laferrière*, 295-320, (302).

[14] *Adresse à l'Assemblée Nationale, pour l'abolition de la traite des noirs, par la Société des Amis des Noirs de Paris* (Paris: L. Potier de Lille, 1790), 2.

[15] André de Mirabeau, *Opinion de M. le Vicompte de Mirabeau, Député du Limousin, sur la pétition des villes du commerce des colonies, l'esclavage & la traite des noirs* (Saint Germain-l'Auxerrois: Vezard et Le Normant, 1790), 14.

[16] Honoré de Mirabeau cit. in Aimé Césaire, *Toussaint Louverture: La Révolution française et le problème colonial* (Paris: Présence Africaine, 1981), 44.

[17] "Les colonies et possessions françaises dans l'Asie, l'Afrique et l'Amérique, quoiqu'elles fassent partie de l'empire française, ne sont pas comprises dans la présente constitution". 'La Constitution française, Présentée au roi par l'Assemblée nationale, le 3 septembre 1791', *Supplément à la Gazette Nationale, Vendredi 16 septembre 1791*, no. 259, 5. This, and all other constitutional articles (unless stated) are taken from original documents digitised at www.modern-constitutions.de.

[18] "Les colonies françaises sont parties intégrantes de la République, et sont soumises à la même loi constitutionnelle". 1795 French Constitution, Article 6.

[19] Rafael de Labra in *La Abolicion de la esclavitud en Puerto-Rico. Reunion celebrada en el Teatro Nacional de la Ópera, por la Sociedad Abolicionista Española, el dia 23 de enero de 1873* (Madrid: Sociedad Abolicionista Española, 1873), 24.

[20] James Stephen, *The Crisis of the Sugar Colonies* (London: J.Hatchard, 1802), 142.

[21] Victor Schoelcher, *Des colonies françaises, abolition immédiate de l'esclavage* (Paris: Pagnerre, 1842), 39-40.

[22] James Stephen, *The Speech of James Stephen, Esq. at the Annual Meeting of the African Institution, at Free-Mason's Hall, On the 26th March, 1817* (London: J. Butterworth & Son, J. Hatchard, 1817), 17.

[23] Thomas Fowell Buxton's speech in parliament on 17 March 1834 referred to "the great experiment of last year", *Hansard,* 1834, vol. 22, 280. http://hansard.millbanksystems.com/commons/1834/mar/17/slavery-abolition-act. See also Seymour Drescher, *The Mighty Experiment: Free Labor versus Slavery in British Emancipation* (Oxford & New York: Oxford University Press, 2002).

[24] Brazil did not abolish slavery until 1888, but by that point was no longer a European colony, having become formally independent from Portugal in 1822. Portugal passed a law in 1858 ending slavery in the remaining overseas territories (principally Mozambique, Angola and other African colonies) over a twenty-year period.

[25] Greek constitution of November 1864, article 13. In *Les Constitutions d'Europe et d'Amérique recueillies par M. E. Laferrière*, 522-34, (524).

[26] See Viorel Achim, 'The Gypsies in the Romanian Principalities: the Emancipation Laws, 1831-1856', Historical Yearbook, vol I (2004), 93-120. http://www.iini-minorities.ro/docs/V.Achim_Emancipation_2004.pdf

[27] It should be noted that Greece, although not an imperial power, also abolished slavery via constitutional law.

[28] Josep Fradera, 'L'esclavage et la logique constitutionnelle des empires', *Annales*, 63:3 (2008), 533.

[29] Rafael de Labra, *La Abolicion de la esclavitud en las Antillas Españolas (Sobre dos folletos recien publicados en Francia)* (Madrid: J. E. Morete, 1869), 12.

[30] According to Michel Rosenfeld, constitutional law has focused on legislating for the long-term prospects of the nation and creating: "broadly phrased open-ended constitutional provisions that are flexible enough to accommodate intergenerational differences without compromising the overall identity that furnishes the essential link between the constitution makers and their descendants".[30] *Constitutionalism, identity, difference and legitimacy* (Durham: Duke University Press, 1994), 20.

[31] 'Préambule', *Constitution de la République Française* (Paris : Dupont, 1848), 5-6.

[32] "L'esclavage ne peut exister sur aucune terre française". Article 6, *Constitution de la République Française*, 7.

[33] 'Treaty between His Britannic Majesty and His Majesty the King of Sweden and Norway, for preventing their subjects from engaging in any Traffic in Slaves' (November 6, 1824) in *Treaties, Conventions, and Engagements for the Suppression of the Slave Trade* (London: T.R. Harrison, 1844), 443.