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Sovereignty, Mastery, and Law in the Danish West Indies, 1672–1733

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In the late seventeenth and early eighteenth centuries, officers of the Danish West India and Guinea Company struggled to balance the sovereignty of the company with the mastery of St. Thomas' and St. John's slave owners. This struggle was central to the making of the laws that controlled enslaved Africans and their descendants. Slave laws described slave crime and punishment, yet they also contained descriptions of the political entities that had the power to represent and execute the law. Succeeding governors of St. Thomas and St. John set out to align claims about state sovereignty with masters' prerogatives, and this balancing act shaped the substance of slave law in the Danish West Indies. Indeed, the slave laws pronounced by and the legal thinking engaged in by island governors suggest that sovereignty was never a stable state of affairs in the Danish West Indies. It was always open to renegotiation as governors, with varying degrees of loyalty to the company and at times with questionable capability, strove to determine what sovereignty ought to look like in a time of slavery.

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> "The governor is the head and has the highest command, the others are merely as vassals below him."
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> "The governor … cannot be judged or be sued or summoned before any court on those islands because he is the highest head, who shall judge all others."[1]

In the 1740s, an anonymous Danish observer of St. Thomas, St. John, and St. Croix, then colonies of the Danish West India and Guinea Company, today the US Virgin Islands, adopted the metaphor of the body politic—of the governor as "the highest head"—to describe, or rather to imagine how colonial power unfolded in the islands. To picture the governor as the head of a colony that would obey his command, like limbs obey the head, was not an original choice of metaphor in the early eighteenth century. Indeed, it was almost anachronistic. With medieval roots, the body politic had been a key concept in European political philosophy for centuries, serving as way of theorising relations between state, royalty, and estates.[2]

In Denmark, the metaphor of the body politic, the idea of the king as head (presumably) of a political body, circulated in central claims about Danish (or, until 1814, Danish-Norwegian) absolutism. In 1660, the Danish estates swore an oath of allegiance to King Frederik III, transforming what had been an elective monarchy into a hereditary and absolutist kingdom. Five years later in *Kongeloven* ("*The Law of the King*," 1665), King Frederik III and his councillor Peder Schumacher, who would later pen the charter of the Danish West India Company, declared that the majesty "shall thereafter be and by all subjects be held and esteemed as the supreme and highest head here on earth."[3] Royal authority was the result of providence, and royal power was only surpassed by Almighty rule. The idea was repeated verbatim in the very first article in *Danske Lov* (*Danish Law*), a comprehensive legal compilation issued by Frederik's son Christian V in 1683. The compilation aimed at creating a unified legal framework for the kingdom of Denmark and can be understood as a central part of the politics of early Danish absolutism. It found its way to the Caribbean in the late seventeenth century as the Danish West India Company (as of 1674 the West India and Guinea Company) established colonies in the Lesser Antilles; first in 1672 on St. Thomas, then in 1718 on St. John, and finally in 1733 on St. Croix.[4]

Conjuring up an image of the governor of the Danish Caribbean possessions as a head of state may have been an example of the European-wide circulation and popularisation of the concept of the body politic. More specifically, however, it may have been a way of claiming, or at least hoping, that the position of the Danish West India and Guinea Company, or rather the state-like qualities of the company, could be imagined as similar to the (ideal) metropolitan Danish state. Indeed, if sovereignty in the Caribbean colonies could be conceived in terms similar to those used in Denmark, then the troubling question of how slavery, in particular slave mastery, could be aligned to absolutist power would go away. It was a futile attempt, however. A closer look at the way sovereignty was in fact being imagined in the Danish West Indies will show that the notion of the governor as the "highest head" did not offer a solution to the problem of balancing slavery with the political culture and ideals of Danish absolutism.

In what follows, I argue that the legal imaginary in the early Danish Caribbean, that is the way agents, in particular governors, of the Danish West India and Guinea Company imagined law and its application, was shaped by a concern with the nature of sovereign rule in a slave society.[5] In making this argument I draw on and combine recent contributions to the understanding of sovereignty and slave law in the early modern period. In early modern empires, as Lauren Benton has noted, sovereignty, a concept including both the notion of *dominium* (i.e., territorial possession) and of *imperium* (i.e., jurisdictional authority), remained "imprecisely defined." Sovereignty was not "a given," but a project in the making. This was not least because long-distance imperial expansion operated through delegated legal authority.[6] Attempts to settle how sovereignty was to unfold in European colonies, factories, and garrisons emerged out of encounters with local agents of diverse origin.

In the Danish Caribbean such encounters were forcefully shaped by slavery, which presented a challenge to emerging ideas of absolutist government. Company officers

in St. Thomas and, from 1718, St. John faced what Malick Ghachem, in his work on the ancien régime and the Haitian revolution, has identified as a particular concern with the risks of slavery and the subsequent presence of a legality informed by a "strategic ethics."[7] This was an ethics preoccupied with securing the stability of a regime based on slavery and it became manifest in pragmatic concessions to and limitations of planter power. Following this insight, but also extending it, the legal history of the early Danish West Indies, dominated by slave owners of Dutch, but also of English origin, evidences that the legal imaginary among company officers was shaped by the need to accommodate ideas of absolute sovereignty and law-making to practices of slavery. If slave mastery was analogous to state sovereignty because it entailed *dominium* (of bodies rather than land) and because it involved *imperium* (in the exercise of decisive authority over those bodies), then how were these competing forms of rule to be reconciled?

Danish Law in the Caribbean

As latecomers in the Caribbean, officers of the Danish West India and Guinea Company knew that slavery was at the foundation of production and hence of profit in the region. Jørgen Iversen, the first governor, had been indentured on St. Christopher in the early 1650s and later entered into a trading partnership with Dutch merchants, being their representative on this island.[8] Iversen's follower Nicolaj Esmit came to the Danish colonial project with thirty years of experience in the Caribbean, having participated both in the settlement of Jamaica and of Tortuga, at least according to his own statements.[9] Likewise many governors became owners of a substantial number of enslaved Africans. Gabriel Milan, governor from 1684 to 1686, for instance, appropriated the estate and the slaves of one Otte Endings, and made himself the master of thirty-six adults and six children.[10] With experience from other Caribbean islands and as slave owners themselves, these company men knew that they had to secure and respect planters' rule over their slaves. But they also had to maintain company rule and by extension royal authority in the islands. Indeed, the Danish metropolitan state was not entirely without capability in the Caribbean. One example is provided by the fate of Governor Milan. When he grossly overstepped his instruction, flouted legal procedure, and failed to provide return cargo for company vessels, he was arrested and escorted to Copenhagen. In March 1689, following the decision of the Supreme Court, he was sentenced to lose honour, life, and property and decapitated on the central square, Nytorv, in Copenhagen.[11]

The act of balancing company sovereignty and master authority came to shape slave law and legal practice in the Danish West Indies in the late seventeenth and early eighteenth centuries. The directors of the West India and Guinea Company walked this tightrope by maintaining the relevance of Danish legislation while also, vaguely, recognising the peculiarity of the Caribbean possessions. In 1682, the first company judge, Ingvold Carstensen, who probably never arrived to St. Thomas, was instructed to adjudicate "after Denmark's law and justice, and the usage found in those countries."[12] The insistence that metropolitan law was to frame colonial law was also pursued in the instructions issued to

Governor Milan in 1684. These instructions, not surprisingly, referred to the legal code *Danske Lov* that had just been promulgated and stated that company employees were to be subject to this integrated corpus of law. During the reign of the following governor, Christopher Heins, the insistence on following metropolitan legal customs became even more pronounced. In 1688, Heins was told that the compilation *Danske Lov* was applicable not only to company employees, but to all inhabitants on St. Thomas.[13]

As can be seen from the 1682 instructions to Judge Carstensen, company directors were aware that in moving law from Denmark to the Caribbean, adjustments were necessary, or at least had to be expected. In 1682, this awareness was expressed by pointing to local "usage." Close to half a century later, perhaps as a response to the purchase of St. Croix in 1733, the concern with circumscribing the applicability of Danish legislation in the West Indies received detailed attention. The charter issued to the West India and Guinea Company in 1734 stipulated that *Danske Lov* had to be followed by island inhabitants in a very specific way, namely "in all cases … so much and in such articles which in these places and according to circumstances can be *applicable*, and which have not expressly been prescribed and instructed differently, either in the *charter,* the *articles,* the granted conditions and *privileges*, or in the *published*, approved ordinances agreeable to the laws of the *American colonies* and with usage and custom."[14] This formulation established a divided yet linked legal space, in which the company-as-state was legitimised to issue laws for the colonies. As noted by legal historian Poul Olsen, the formulation opened the way for an ongoing debate about the position of *Danske Lov* in the Danish West Indies.[15] More specifically, it left unanswered the question of how to balance the authority of slave owners up against the sovereignty of the company-state with its links to the still relatively new tradition of absolutism in Denmark; or, in other words, allowing for the presence of "usage and custom" did not ease the tension between state power and slave mastery in the islands.

Local Usage and the Control of Slaves

The charters and instructions provided to company officers aimed at mapping out the overall legal repertoire available to them, whereas slave laws formulated as so-called *plakater* (placards), constituted officers' hands-on response to the problem of how authority should be approached in the Caribbean. In 1698, Governor Johan Lorentz, like governors before and after him, began a placard about runaways by noting that "serious complaints are daily received about the insolences done by the maroon negroes."[16] Responding to complaints, or at least claiming to respond to them, most slave laws were formulated as ad hoc solutions to specific thorny issues concerning the management of enslaved Africans and—as we shall see—their masters. As such these legal acts provide a glimpse of the ideas, developed on St. Thomas and St. John, that provided content to the concept of *local usage* referred to in the instructions issued from Copenhagen.

Though obviously formulated in closer relation to the everyday challenges of ruling a colony than metropolitan law, the placards offer complex evidence for on-the-ground

ideas about sovereignty. Sovereignty in the early modern Atlantic was heavily, but not exclusively, related to states' ability to decide the future through the giving and making of lasting law. Yet it is not entirely clear what kind of duration early company men attributed to the placards. Did governors, for instance, understand placards as parts of a coherent corpus of slave law, in which new legislation was either adding to or substituting for older decrees? Or were the placards seen as isolated statements that soon lost validity in the chaotic and fickle conditions marking early Thomasian society? Clearly, some placards were conceived as interventions with a restricted temporal scope. This was, for instance, the case with a number of placards about runaway slaves, such as the one issued by Governor Erik Bredal in 1722 about the runaway slaves of one Mr. Moll. Bredal decreed three days of safe passage to the runaways, warned others against housing them, and warned the runaways that they would lose one foot if they did not return before the sanctuary period expired.[17] In Moll's case, the law was so individualised that it lost general applicability. The lack of interest in establishing a coherent corpus of slave law may, however, have extended beyond the making of such personalised and flexible law. In the late eighteenth century, one colonial officer on St. Thomas lamented that placards from the period 1702 to 1715 were missing. If not caused by hurricanes, he believed, this was probably because the early company administration "handled the archive with negligence;" or in other words, this was an administration that did not legislate for the future, but for the present.[18]

There were also, however, elements in the placards evidencing an effort towards creating a larger corpus of general slave laws. Of particular importance to the development of slave laws were two decrees issued by Governor Joachim von Holten on April 20, 1706, one concerning marronage and the other prohibiting slave gatherings. These decrees were later used as anchor points for new legislation.[19] In 1711, Governor Michael Crone in a decree on marronage and theft referred to the earlier ordinance on marronage issued on April 20, 1706. Crone saw his decree as an addition to rather than as a repeal of previous law, noting that the Secrete Council (i.e., the government council consisting as of 1702 of high-ranking company men) had decided to repeat the previous decree in full while adding further articles to it. Likewise, the important slave code of 5 September 1733—which came to inform the Danish West Indian legal system into the nineteenth century—also referred to a decree issued in 1706, probably one of those issued on 20 April of that year.[20]

Slavery as such was neither in question nor, apparently, in need of definition in the early Thomasian legal acts. In what was probably the very first placard promulgated on St. Thomas in 1672, Governor Jørgen Iversen, mentioning enslaved Africans in one article out of fourteen, made clear that "no man is allowed to let his negroes leave his house or plantation after sunset without lawful business and cause." In the ordinance, Iversen underlined that "strange negroes," (i.e., enslaved people outside the household or estate of their owner) found at night should be apprehended and brought to "the fort" for punishment. With these formulations, Iversen presumed the subjugation of Africans and their descendants, and he established that slaves fell within the jurisdiction of the colonial state, which could punish them for their nightly outings. Iversen also, however, pointed

to the fact that enslaved Africans were subject to two hierarchically linked authorities, namely the company-state, which could give law to and exercise law over the other authority, namely the "man," that is, the slave owner, who had "his negroes."[21]

In the fifty years leading up to the promulgation of the slave code of 1733, more than a score of company laws, in Danish and Dutch, established marronage, the breaking of the curfew and nightly wanderings, theft and handling of stolen goods, the possession of weapons, drinking, and stick fighting as well as gatherings and celebrations as crimes that were particular to slaves and for which they should be punished. Many ordinances noted that enslaved Africans were to receive a "*goede Castyinge*" (i.e., a good castigation) or a "*god Pidskning*" (i.e., a good flogging) for their alleged criminal activities.[22] Compared with the slave code of 1733 and later slave laws these early laws contained imprecise descriptions of the punishment enslaved Africans were to suffer—a point, that supports the insights of earlier historians concerning the growing rigour of slave law during the eighteenth century.[23]

Absolute Sovereignty

Whereas slavery was never an issue for the West India and Guinea Company, it was less clear where to draw the line between company sovereignty and masterly authority. The early placards differed from later slave law by containing a vision of a colonial state that did not share its sovereignty with slave owners. From the 1670s to around 1700, governors and council members, like Governor Iversen, imagined that punishments of the enslaved were to be carried out inside or adjacent to Christiansfort, the fort on St. Thomas, and hence under the auspice of company authority. In 1684, the punishments stipulated by Governor Milan for breaking the curfew ranged from a severe lashing for first time offenders, the cutting off of both ears at the second incident, and third time offenders were to lose their life and have their head put on a stake.[24] This was a range of punishments that most probably involved the colonial state. Likewise, in 1688, Governor Heins ordered that enslaved hucksters be caught and "delivered in the fort," and in 1694, Governor Johan Lorentz decreed that enslaved people caught drinking were to be brought to the fort and flogged there. In these early legal acts, governors claimed to represent a state that did not depend on slave owners' mastery to uphold sovereignty and exercise force against its subjects, including those who were enslaved.[25]

Indeed, the frequent references in placards to the fortress on St. Thomas can be understood as an attempt to add substance to pretension. The fort was a material reminder of the company's attempt at achieving control of the island. In 1680, when it was almost finished, Christiansfort consisted of an eight-hundred metre long wall, four to almost seven metres high, and between one and one-and-a-half metre wide. It had embrasures and four corner bastions with sliding gates for cannons. In 1676, a tower, *Trygborg*, eight metres high, had been constructed in the yard for further strength and protection. Around the fort, a wooden stockade had been constructed and the ground had been planted with prickly cactuses. The so-called "justice stake" on which delinquents were

punished was placed inside the fort next to the governor's residence. The fort, in other words, condensed government power in its material structures, and island inhabitants were well aware of this. During the Dutch war, 1672–1678, European men, women, and children sought protection in the fort from French attacks for a period of two years while their enslaved property was being housed in the company's slave barracks outside the fort.[26]

The vision of sovereignty present in these first placards echoed, and at times went further than, the ideas of royal power expressed in Danish absolutist thinking. In the preface to *Danske Lov* of 1683, King Christian V explained that the authority to govern flowed downwards from God through the king to his subjects. The compilation contained, among others, regulations regarding mastery (of servants and bonded peasants, that is villeins (i.e., *vornede*) and sanctioned the privilege of masters to chastise their underlings. According to *Danske Lov* (§ 6–5-5) masters could punish children and servants, with "stick, or cane, and not with weapon," yet they were liable to prosecution if their acts resulted in wounds, the breaking of limbs, or health damages.[27] In the early Danish West Indian ordinances, in which enslaved Africans were to be punished at the fort, no attention was paid to masters' castigatory privileges. It is tempting to understand this absence as a result of the pragmatic attitude towards slavery shown by the Danish company. A view towards other Caribbean islands, however, suggests that this may be a hasty conclusion. The two widely circulating slave acts, An Act for the Better Ordering and Governing of the Negroes promulgated on Barbados in 1661 and the *Code noir* drafted in the Antilles and issued in France in 1685, both described the extent of masters' authority. The Barbados act sanctioned owners' right to punish, even if this could kill their slaves (§ 20), while the French code specified that masters were allowed to flog and enchain, but not to mutilate or kill the enslaved people under their command (§ 42).[28] In this light, the omission of a precise description of the castigatory rights enjoyed by masters on St. Thomas may be understood as part of an early discursive insistence on absolute sovereignty.

Around the turn of the century, the monopoly of state violence on St. Thomas was formulated in very exclusive terms. In May 1698, Governor Lorentz prohibited slave owners from pardoning or punishing slaves who had been absent for more than three days under a fine of ten pieces of eight. This placard was one in a longer series by which governors and some slave owners confronted what they saw as the recurrent problem of marronage on St. Thomas. As in the other West Indian ordinances, Lorentz did not explicate how his decree related to metropolitan law. He did argue, however, that a failure of mastery in St. Thomas made law necessary. A "good number of residents," he stated, did "not properly castigate their slaves for their running away upon [their] return."[29] Therefore Lorentz curtailed masters' rights to castigate their slaves as they saw fit.

Similar concerns, though with an inverse inflection, lay behind the decision to prosecute one Abraham Tessemacker in 1702. Tessemacker had come from Curaçao to purchase provisions on St. Thomas. En route one of his slaves committed suicide. According to the vice-commander on St. Thomas, Tessemacker had "dared to put on a stake the head of one of his negroes, who had killed himself." This act of postmortem mutilation, the

commander believed, "belong[ed] to the law [i.e., *justitien anrører*]," and he summoned Tessemacker for trial. Though the decision in the case is now lost, the episode illustrates that the question of what political entity was entitled to execute punishments was central to company officers on St. Thomas.[30]

Failing Mastery

It is worth noting that Lorentz' short-lived attempt at establishing a monopoly on violence in 1698 was part of a broader rhetorical strategy of carving out a place for the West India and Guinea company-state in the Danish West Indies. One important way of making place for the company-state emerged in the tacit claim that (some) slave masters were not mastering their mastery as they ought to. This claim emerged in the placards concerned with European settlers, in particular slave owners, whose behaviour according to company officers led to slave theft, gatherings, and marronage, among others. In March 1688, Governor Adolph Esmit introduced fines of four hundred pounds of sugar to those who bought trade goods from enslaved hucksters without a license.[31] Later that year, Governor Heins increased the stakes. He complained that the trade between planters, inhabitants, and strangers (i.e., Europeans without a permit to reside in the island) on the one hand and the enslaved on the other "had animated the negroes to steal from their masters." To curtail theft, Heins instructed all planters and inhabitants that slaves were no longer to cultivate their own tobacco. Instead masters should provide their bondpeople with the tobacco "they need." In addition, Heins ordered planters to catch enslaved people trading tobacco, cotton, indigo, and other wares or to face a fine of three thousand pounds of sugar.[32]

Forty years later, in 1726, Governor Moth also emphasised the responsibility masters carried for preventing their slaves from stealing. He noted that a severe draught had caused a food shortage, which "forced the negro to seek his life maintained" in a "thievish manner." Therefore, Moth instructed planters to provide food to their slaves. If planters failed, they lost compensation from the "land" (i.e., from company funds) in case the judiciary sentenced their slaves. Guilty planters could expect "to be punished according to the severity of the law."[33] In this discursive logic, the failure of slave owners to exercise mastery gave the company-state reason to exercise the law against them in all its rigour. It was not a zero-sum game, however. In this case, as presumably in most others, the concern with planters' behaviour was not mirrored in the treatment of slaves. In 1726, seventeen enslaved people were executed, probably because they had stolen produce to survive or shown defiance to white authority in a period where company officers were particularly anxious to maintain social stability.[34]

Like theft, the alleged crimes of marronage and slave gatherings were also tied, in the minds of company officers, to the questionable quality of mastery in the Danish West Indies. The claim that masters were exhibiting faulty mastery came out clearly in a ban on slave gatherings issued by Governor Suhm in 1731 (specifically for St. John). Suhm prescribed a fine of sixty pieces of eight to owners who allowed "gatherings &

dance" on their estates. If white overseers were responsible, they were to receive a flogging of sixty blows with a stick. On estates without whites, the enslaved driver, the *bomba*, was to receive a "*raisonable* thrasing."[35] Though radical, Governor Suhm's placard of 1731 was one in a longer row of legal acts aimed at combating gatherings and marronage. These acts were directed at enslaved Africans, but they also contained a concerted effort at regulating masters' behaviour and prerogatives. In 1684, Milan instructed island settlers to secure canoes and vessels with chains and locks in order to combat marronage. Also, in 1684, addressing himself directly to slave owners, Milan instructed them to forbid their slaves from gathering. Slave owners were ordered to make sure that "each instructs his slaves" about curfews. Fines were introduced in 1688, when Governor Heins charged masters to order their slaves to stay on estates and refrain from making "parties," prescribing a mulct of one-thousand pounds of sugar to those who ignored this instruction, and in 1700, Governor Lorentz ordered all planters and inhabitants "to keep their slaves on their plantations on Saturdays & Sundays." Likewise, 1711 and 1723 saw placards containing fines to owners who allowed their slaves to gather on the estates.[36] Though obviously a far cry from the violent, often deadly punishment directed at enslaved people, the fining of slave owners underlines that company officers were seeking to establish sovereignty by making slaves as well slave masters into subjects of the laws of slavery.

Negotiating Sovereignty

Searching for ways of aligning company sovereignty with slavery, governors began to reformulate the vision of exclusive sovereignty tied to the fort contained in legal decrees of the late seventeenth century. In the eighteenth century, this process of discursive negotiation resulted in a shift in the way governors envisioned the position of the company vis-à-vis slave owners. During the seventeenth century, the capture, but not the punishment, of other people's slaves received sanction in local law. As noted, Governor Iversen decreed in 1672 that "he who finds or notices a strange negro on his plantation during night time, he shall catch them [*sic*]."[37] Similarly, Governor Heins permitted the capture of enslaved people selling tobacco, cotton, and indigo in 1688.[38] In these early years, as governors imagined sovereignty as an exclusive quality belonging to the company-state, there was little recognition—in legal thinking—of the need to distribute or share authority with slave owners.

Around the turn of the century, however, governors began to delegate wider powers to slave owners and other white inhabitants of St. Thomas. This development ran parallel to the growth of the enslaved population, which rose from around five hundred to more than three thousand in the period 1691–1715. In the same placard in which Governor Lorentz encroached on the privilege of slave owners to punish or pardon as they saw fit, he "permitted them freely to shoot" enslaved people found "busy stealing" on their estates.[39] This permission to shoot enslaved Africans, repeated with variation in 1715, 1723, and 1726, clearly extended the powers slave owners could legally exercise over the

enslaved population.[40] It was paralleled in provisions allowing white inhabitants (sometimes referred to as "Christians") to flog enslaved Africans for a number of alleged infractions, such as carrying goods without permission in 1700 and carrying weapons and gathering for dances in 1711.[41]

The permission to flog enslaved Africans was phrased as a question of freedom, "*Vryheit*" (i.e., *vrijheid*), delegated by the government to island inhabitants by Governor Michael Crone in 1711.[42] As such, this freedom was not a right, but a privilege granted by the company-state in recognition of the "trouble" whites experienced when they had to send culprits to the fort for punishment. Thus, Crone framed freedom as an exemption from a particular duty that the state could expect its subjects to perform but chose not to in this particular case. As in most other decrees there was a strong element of wishful thinking in Crone's invocation of freedom, a freedom that was arguably not his to give. Indeed, Crone's promise of freedom can also be understood as an attempt to rhetorically co-opt the customary authority that masters already held over their enslaved property in the Caribbean world of which St. Thomas was a part.

Sharing Sovereignty

During the first fifty years of rule in the Caribbean, from 1672 to 1733, the governors, even those like Milan and Nicolaj Esmit who are traditionally described as fraudulent or incompetent, were involved in figuring out how slavery could go hand in hand with a political culture of absolutism.[43] The slave code of 5 September 1733—that as noted became the central legal act for the prosecution of enslaved Africans and their descendants until the early nineteenth century—can likewise be read as a contribution to this long-winded, often implicit, discussion of sovereignty in the Danish company's Caribbean possessions. Neville Hall aptly described the code of 1733 as "draconian."[44] At its publications, the members of the Secrete Council noted that they had been "considering how henceforth to bring more fear [in]to the negroes, in addition to preventing their thefts … to which end it was decided to publish two ordinances, one with a ticket that every negro must show when he carries something of value, the other containing much terror against the negroes."[45] Submission was the goal, as had also been the case in previous placards.[46]

The slave code of 1733, issued by Governor Philip Gardelin, is often described as a response to the devastating conditions (drought in spring and summer and a hurricane in July followed by insect attacks) that created famine and increasing unrest among the enslaved population of St. Thomas and St. John.[47] This interpretation of the ad hoc nature of the code provides a good explanation of its timing, but is less helpful in explaining its content. However, with the 1706 placards announced by Governor Holten as its backcloth, the 1733 slave code can be seen to continue a punitive regime already developed in earlier law. One of the decrees of 20 April 1706 contained eight articles concerning marronage and maritime escape. Though the slave code of 1733 was not an exact copy, Gardelin appears to have followed the decree of 1706, while also refining and

adding to its formulations. The 1706 placard began (§ 1) by aiming at those enslaved people who planned and executed island escapes. The article established that ringleaders were to forfeit their life while followers would lose a leg. If the leaders could not be found, the group of enslaved would have to "play about whom of them shall lose [their] life." Gardelin adopted these punishments (§§ 1, 2) but did not opt for the deadly roulette solution. Holten (§ 2) and Gardelin (§ 3) also specified that slaves who knew that other enslaved would attempt to maroon were amenable to punishment—in Holtens descree the culprit would lose a leg, in Gardelin's he or she would be branded and flogged heavily. Finally, Holten introduced (§ 3) a tripartite division of maroons into those who had been away a fortnight, who were promised safe passage, those on the run for more than two weeks, who were to lose an ear, and those who had been away for a longer time, who could expect to lose a leg. Gardelin adopted the division, but he specified the time periods and increased the punishments. The first offence was atoned by a heavy flogging and the last with life.[48]

There were also, however, differences between the slave code of 1733 and earlier legal acts. In addition to introducing graduation and specificity to the slave laws of the Danish West Indies, Gardelin suggested a new way of sharing sovereignty with slave owners on the islands. The 1733 code withdrew or at least recast the castigatory privileges assigned to slave owners during the previous thirty years. Of the code's nineteen articles, two explicitly permitted the extra-legal punishment of enslaved, namely the "beating" a white was permitted to give a slave who did not show him submissiveness (§ 11) and the fifty lashes a white was permitted to give a slave caught with sticks or knives (§ 12). This latter provision may have related to the decree on slave gatherings of 20 April 1706, which authorised all inhabitants to give a "reasonable flogging" to slaves who carried such items on Sundays (§ 3). Other punishments in the 1733 code were to be carried out "before the law," "by the law," or in the fort (§§ 17, 18).[49]

The clearest sign that the slave code of 1733 aimed at realigning state sovereignty and mastery was the fact that it entitled slave owners to partake in the royal prerogative of pardon and dispensation.[50] The slave code of 1733 assigned owners a formal but restricted possibility of demanding a different punishment. They could, if their enslaved property collectively ran away, request flogging and mutilation rather than dismemberment (§ 2), owners of maroons that had been away for more than half a year could likewise request dismemberment (the amputation of a leg) rather than capital punishment (§ 5), and whites assaulted by slaves could request torture and hanging while the sentence would otherwise be dismemberment (§ 9). In all probability the punitive variance thus instituted was of little if any difference to most of the enslaved men and women who suffered these brutal sentences—most would die. For slave owners, however, Gardelin's code established formal points of intervention into legal practice. They were invited to exercise some of the prerogatives of royal sovereignty as contributors to the law rather than merely as its executors.

The sharing of sovereignty described by Gardelin involved an opening up of the legal process, establishing a formal venue for those slave owners who cared to involve themselves in determining verdicts. This was not the way Holten had thought about the

position of slave owners in 1706. To show, Holten noted, that legal decisions were made only to combat the "disorders among the slaves," it would be the four members of the first instance court, the so-called Ordinary Council (*Det ordinære Råd*), who would make the first judgement, which would then need to be approved by the Secrete Council and the governor.[51] The Ordinary Council had been established in 1702 by the direction of the company as part of an attempt to curtail the influence of planters on the government. As a result, planters refused to take up seats in the council and the four members to whom Holten referred were presumably company employees.[52] Holten thus opted for a solution in which the authority to formulate a fitting verdict and pass sentence was securely in the hands of the company. In contrast, Gardelin carved out a formalised place for planter authority within the legal processes of the company-state. He did so by describing precisely what role slave owners could have in the enactment of justice.

Holten's thinking about the judicial competence of slave owners may have related to his view of mastery in St. Thomas. He for instance argued that many inhabitants allowed slaves "large parties on their plantations," which was "absolutely to the disadvantage of the country." Also, Holten noted, slave owners were prone to turn a blind eye to and refrain from punishing their escapees. Therefore, Holten decreed that only those owners who had properly notified the company of their missing slaves were entitled to compensation when said slaves were sentenced to mutilation or death.[53] Masters needed regulation, obviously of a much softer kind than the enslaved, but regulation nonetheless. The relationship between Holten and the planters of St. Thomas was one of mutual dislike. Planters saw Holten as too authoritarian, and in 1702 they eschewed him in favour of his junior Claus Hansen, though this choice was contrary to the custom of appointing the highest-ranking company employee as next governor.[54]

Limiting Sovereignty

Gardelin's view on sovereignty stands out from a proposal for the improvement of the West Indian colonies entitled *Particular Laws for the Inhabitants of the Danish Colonies in America As Well As for Their Slaves*, which he authored in August 1736 while in Copenhagen. In this proposal, Gardelin noted, it would be "*demonstrated*, with greatest brevity, how and in what manner the *colonies* under the *dominium* of his Royal Majesty in *America*" could be brought to persist and prosper. Gardelin's use of the concept of *dominium*, interlinked as it was in early modern political discourse with the concept of *imperium*, situates his proposal in the projects of sovereignty that had unfolded, with varying degrees of intensity and clarity, since the establishment of the Caribbean colonies. In Gardelin's view, the *dominium* of the absolute Danish monarch was to be achieved by the better exercise of *imperium*, that is by the making of "*particular laws*" that aimed at both slave owners and slaves in the colonies. The company-state had to prevent "*tyranny* against the slaves" in order to subdue slave unrest and create a prosperous colony.[55] Describing his time as bookkeeper, secretary, and later

as governor of St. Thomas, St. John, and St. Croix, Gardelin noted that the company-state had been met with contempt because it had been "incapable and without the authority upon which to act as government [i.e., *øvrighed*]." Therefore, he argued, the company would need to improve its legal institutions. Neatly referencing the political ideology of the Danish state, Gardelin argued that next after Christianity, the "judiciary" was the "holiest in the country."[56] So far, however, it had been standing on weak pillars in the Caribbean. Gardelin advised that the company should employ "such administrators who will and can enforce law and justice in the country with eagerness and zeal according the law of the King." [57]

Gardelin—without acknowledging his source—based his proposal on a selective appropriation of the *Code noir* issued for Louisiana in 1724, which in turn was based on the first *Code noir* of 1685.[58] It was probably not a coincidence that Gardelin drew on French law rather than on legal traditions closer to the Dutch and English planters in the Danish West Indies. Though the *Code noir* was the result of French Antillean lawmaking, it had the sanction of French absolutism, and hence Gardelin may have seen it as a particularly relevant model for the Danish West India and Guinea Company. Indeed, the code would later inform a (never proclaimed) slave code issued from Copenhagen in 1755, when the Danish state took over the formal rule of the Caribbean colonies.[59] The significance of the French Caribbean as a model for the Danish islands was underlined by Gardelin when he noted that one could learn from "*Les Histories de Antilles*," probably a reference to one of Jean Baptiste du Tertre's late seventeenth-century works on the Caribbean, to rule with vigilance and sensibility in "islands, where there is from 10 to 20 heathens against one white."[60]

The existence of the 1736 proposal suggests that Gardelin was acquainted with the *Code noir* when he drew up the slave code of 5 September 1733. Indeed, reading the slave code of 1733 together with the proposal of 1736—and against Louisiana's *Code noir* of 1724—provides further evidence that Danish West Indian lawmakers were paying close attention to how best to accommodate slave mastery to state sovereignty. In contrast to the *Code noir* of 1724, however, Gardelin, as noted, allowed slave owners to take part in the process of adjudication. This peculiar sharing of sovereignty was perhaps a way of limiting state power in order to keep it. Gardelin and his council members may have decided that it was better to hold on to a small measure of authority than for the company-state to reach for a position of power that was entirely untenable because of limited resources, personnel, and a well-established tradition of slavery imported from the Dutch and English Caribbean.

Encasing sovereignty in order to keep it also emerges as the rhetorical logic behind one of the more peculiar articles of the slave code of 1733, namely its prohibition of magic. While *Danske Lov* of 1683 stipulated that sorcerers and witches were to be punished with burning, the slave code of 1733 (§ 13) stated that "magic among the negroes … shall … be punished with a harsh flogging." This was one of the mildest sentences in the code. Its other articles stipulated a combination of floggings, ranging from 100 to 150 lashes, branding, mutilation, and hanging.[61] With this prohibition of magic, the company-state established that its intervention in the religious lives of Africans was to

be minimal. This was not merely an oversight, or a spill-over from metropolitan developments towards a legal regime less informed by a magical cosmology.[62] The little attention paid to the religious lives of Africans was a choice that had not been easy for Gardelin to make. Judged by the 1736 proposal, Gardelin saw himself as a governor representing a Lutheran absolute monarch. In his writings, he voiced the view, common in seventeenth- and early eighteenth-century Denmark, that fear of God and observance of his laws would bring divine blessings to people and country. Only proper worship by which "the heaven opens and all God's innumerable and infinite blessings flow to man on earth" would bring profit, utility, and "merriment" to the company's possessions. Sadly, according to Gardelin, religion was only embraced half-heartedly in the Caribbean. In his view, this lack of devotion explained why the islands suffered the "result[s] of God's righteous verdicts" and were "haunted with one plague after the other."[63]

The fact that the relatively mild provision against magic was rare in a Caribbean context lends further support to the view that it emerged as a way of navigating between Danish notions of Lutheran sovereignty and a society increasingly dependent on African labour. Hence the provision cannot be directly linked to the legal traditions emerging in the Dutch Caribbean. Despite the strong Dutch influence on the Danish colonial project, it has no equivalents in the placards published in Suriname, Curaçao, Aruba and Bonaire, St. Maarten, St. Eustatius, and Saba.[64] The same holds true for the Barbados slave act of 1661 and the *Code noir,* neither of which contained particular provisions against African religion.[65]

The fact that Caribbean company men had to change their conception of what sovereignty entailed also stands out from Gardelin's thinking in a murder trial from 1735. In that year, one Jacob Magens shot and killed the enslaved man Mantil. For Gardelin two legal principles had to be untangled to decide on the case. On the one hand, Gardelin invoked the strong Lutheran tradition of seeing executions as Christian rituals, through which the sovereign prince sacrificed the life of the sinner to atone for the sin committed and prevent God's wrath from falling upon the people. Following this tradition, Gardelin asked if the judiciary could be "atoned [for] this blood" by obtaining the sworn testimonies of Jacob Magens and Mantil's owner declaring that Mantil had been the aggressor. On the other hand, and based on West Indian slave law, Gardelin also noted that Magens had been "entitled" to "slay" a disobedient slave. In the Caribbean, it would have the most "evil" and "sad" consequences, if the slaves "sensed that they were equal to the Christians."[66] Slave law trumped *Danske Lov* and its injunction, based on Mosaic law, of a life for a life.

Together the relatively weak prohibition of magic found in the 1733 slave code, Gardelin's thinking in the murder case of 1735, and his 1736 proposal highlight that transferring sovereignty from Denmark to the Caribbean involved a restriction of the societal fabric onto which the state should act. Gardelin was well aware that the slave laws of the Danish West Indies, the 1733 code inclusive, broke with metropolitan ideals of Lutheran absolutism. In his proposal from 1736, echoing a European-wide tradition that legitimised slavery with conversion, he noted that "the finest goals, which ought to be had in trade and from the slavery of these ignorant heathens is this: To bring as

many as possible to God's knowledge." Gardelin continued, however, by emphasising that the spread of Christianity "demands great expenditure and has a distant prospect." Consequently missionary activities had to be "suspended." It was a question of what the government "was able to do," and its ability was limited.[67]

Sovereignty, Mastery, and Slave Law in the Caribbean

In their legal thinking and law-making company officers in the Danish West Indies, as jurist-in-the-making, struggled to balance the sovereignty of the company-state with the mastery of St. Thomas' and St. John's slave owners. Slave laws described slave crime and punishment, but they also contained descriptions of the political entities that had the power to represent and execute the law. Succeeding governors of St. Thomas and St. John set out to align claims about state sovereignty with masters' prerogatives, and this balancing act shaped the substance of slave law in the Danish West Indies. Indeed, the slave laws pronounced by and the legal thinking engaged in by island governors suggest that sovereignty was never a stable state of affairs in the Danish West Indies. Rather the changing conceptual formulations of rule indicate that sovereignty was a malleable project, an ambition, sometimes merely a pretention. It was always open to renegotiation as governors, with varying degrees of loyalty to the company and at times with questionable capability, strove to determine what sovereignty ought to look like in a time of slavery.

The legal imaginary of the Danish West Indian company men highlights their concern with sovereignty and its links to slavery. As such the history of slave law in the Danish West Indies adds to our understanding of the long-term dynamics of state formation in slave societies. It does so by underlining that what Lauren Benton has termed a "search for sovereignty" was shaped by the political ideals of Danish absolutism as these were twisted by slavery. Indeed, the Danish Caribbean case suggests that state-thinking was a two-way process in which Caribbean claims to sovereignty were simultaneously shaped by metropolitan constitutional traditions and emerging practices of slavery. One aspect of this process—the role played by imperial constitutional traditions—has long been recognised by historians. Indeed, the importance of the metropole was one of the core arguments of Elsa Goveia's seminal work on the West Indian slave laws of the eighteenth century. By linking slave laws to various European constitutional traditions Goveia established a typology of law based on the legal personae of the slave. Hence she could index the severity of various imperial corpora of slave laws. Since Goveia, many legal historians have studied slave law, until amelioration, as an expanding set of rules emanating from a planter elite and controlling the cultural, social, and economic presence of enslaved people in the Americas. Sue Peabody, for instance, notes that the French *Code noir* "would gradually lose many of its moderating provisions" as colonists strove to "control the overwhelming expansion of the slave population," and Sally Hadden highlights how English colonists developed slave codes and piecemeal provisions to uphold control of their enslaved populations.[68] Neville Hall in his important work *Slave Society in the Danish West Indies* likewise documented the development of local

ordinances directed against slaves from 1733 to the late eighteenth century and showed that these came to regulate an increasing array of slave activities.[69] Taken together these studies of slave laws pinpoint their most immediate and important function and highlight the ability of colonial states to act out their legal powers onto enslaved people. Yet they say less about the way the Caribbean state *sui generis* was shaped by slavery.

The relatively little attention paid to Caribbean configurations of sovereignty may be related to a long historiographical tradition of negatively estimating early modern Caribbean states and societies. Regarding the Danish colonies, Hall argued that Denmark was an "empire without dominium."[70] Hall's view of the Danish state's lacking capacity in the Caribbean continued a narrative line already established in earlier scholarship. In the 1940s, historian J. O. Bro-Jørgensen, for instance, painted a picture of a company staffed with officers concerned with enriching themselves, engaging in passionate infights, and catering to pirates. These men were corrupt or incompetent or both rather than engaged in considerations of how to govern a future slave society.[71] This was a story in which the company-state succeeded almost in spite of itself. Other historiographical traditions have likewise portrayed the Caribbean colonies as unsatisfying entities. Gert Oostindie and Jessica V. Roitman recently noted that Dutch Atlantic history has been dismissed, even by some of the most important Dutch Atlantic historians, as a "failure" because Dutch possessions provided neither the empire nor the economic gains that they apparently ought to.[72] With a different emphasis, Natalie Zacek has pointed out that the British Caribbean colonies, in particular the English Leeward Islands, have been understood as "social failures," inhabited by men eager for profit, but void of political visions.[73]

Against this historiographical backcloth it is perhaps of little surprise that processes of Caribbean state formation, including formulations of sovereignty, have been little explored. Slave laws have mostly been interpreted as expressing the interest of slave-owning elites in different European empires. Hence, in the Dutch Caribbean slave law was in the hands of local councils, headed by a governor and staffed with slave-owning masters whose "priorities" shaped the process of law-making.[74] In the case of the British Caribbean, slave laws were issued by local assemblies, under the oversight of royal governors. Clearly, elites had a large say in the formulation of slave laws in the Caribbean slave societies and slave laws were fundamentally a control mechanism aimed at subduing enslaved men, women, and children. Yet the law had other functions as well. It also served as a way of encasing master authority and carving out a space for the colonial state. Slavery, as noted by Malick Ghachem and evidenced by the Danish West Indian company men, pressed colonial agents, some of whom were also slave owners, to reconsider what sovereignty ought to be and how it was to be adjusted to mastery in the Caribbean.

The anonymous writer, with whom I began, believed that rule in the Caribbean could be explained through the metaphor of the body politic. Governance was a line of command, in which the head controlled members of the social whole. Slave laws in the Danish West Indies—as in other Atlantic slave societies—were obviously concerned with the control of enslaved Africans and their descendants. Yet slave laws were also,

as a close reading of the Danish West Indian placards demonstrates, concerned with the particular position of state sovereignty in slave societies. In the Danish West Indies, the authority of the slave owner could not easily be made to fit into the hierarchical notion of the Christian absolute sovereign integral to Danish constitutional thinking. There is little doubt that these early company decrees can be read as fictive gestures; as somewhat unsuccessful speech acts. The company had little ability to actually control how slave owners and other whites handled their slaves and therefore it was neither in a position to monopolise nor to delegate authority. Yet, governors were caught up in the process of state formation. They had to find ways of expressing how state sovereignty should unfold in a society with an increasing number of enslaved Africans.

Though certainly not their only or main function, slave laws were also about the distribution of power between slave masters and the (company-)state. This was a balancing act of importance to colonial elites. It was also an act that substantially shaped the content of slave laws and therefore it influenced how enslaved Africans and African Caribbeans would encounter the law. Concern with sovereignty can be seen in the formulation of particular articles of the Danish West Indian slave laws and in ideas about the quality of slave mastery, in particular the consistent claim that slave mastery was faulty and therefore in need of legal oversight. The strategic ethic identified by Ghachem can also be recognised in the Danish West Indies, for instance in Gardelin's argument that the company-state had to act against tyrannical masters. More than ethics, however, it was a concern with sovereignty that informed governors in the Danish West Indies. It was this concern that prompted Governor Lorentz, posturing as a colonial absolute, to declare that owners were not to punish their own slaves since they did not do so properly. Yet sovereign fantasies could not be transplanted from Denmark to the Caribbean unchanged without friction. The early years of Danish Caribbean rule were characterised by shifting ways of conceptualising sovereignty and its relation to mastery—from exclusiveness, to delegation, and finally to sharing and limitation. Slavery forced Danish West Indian company officers to confront a problem of scale. They needed to figure out how to balance the need of the individual slave master against the need of the common good of slavery.

Bibliography

Unpublished Primary Sources

Rigsarkivet, København:

Generaltoldkammeret (GTK), Vestindisk-guineisk renteskriverkontor

390, Visdomsbog, 1733–1783 (GTK 390)

441, Samlinger af skrevne love for øen St. Thomas, 1762–1806 (GTK, 411)

442, Koloniale plakater, bekendtgørelser og befalinger for St. Thomas og St. Jan, 1672–1842 (GTK 442)

Vestindisk-guineisk kompagni (VGK)

Direktionen

176, Guvernører og andre betjente i Vestindien vedk., 1684–1743 (VGK 176)

Det sekrete råd på St. Thomas

489, Sekretprotokol, 1723–1737 (VGK 489)

Guvernementet på St. Thomas og St. Jan
502, Journal over det på St. Thomas passerede, 1702–1706 (VGK 502)
515, Plakatbøger fra St. Thomas, 1688–1736 (VGK 515)

Secondary Sources

Aarhus Universitet. "Kongeloven, 14 november 1665." Danmarkshistorien.dk (website), accessed February 25, 2017. http://danmarkshistorien.dk/leksikon-og-kilder/vis/materiale/kongeloven-1665/.

Aubert, Guillaume. "'To Establish One Law and Definite Rules': Race, Religion, and the Transatlantic Origins of the Louisiana *Code Noir*." In *Louisiana: Crossroads of the Atlantic World*, edited by Cécile Vidal, 21–43. Philadelphia: University of Pennsylvania Press, 2014.

Baecque, Antoine de. *The Body Politic: Corporeal Metaphor in Revolutionary France, 1770–1800*. Stanford, Calif: Stanford University Press, 1997.

Benton, Lauren. *Law and Colonial Cultures: Legal Regimes in World History, 1400–1900*. Cambridge: Cambridge University Press, 2002.

——. *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900*. Cambridge: Cambridge University Press, 2010.

Bro-Jørgensen, J. O. *Dansk Vestindien indtil 1755: Kolonisation og kompagnistyre, Vore gamle tropekolonier*, edited by Johannes Brøndsted. Vol. 1. Denmark: Fremad, 1966.

Brown, Vincent. "Spiritual Terror and Sacred Authority in Jamaican Slave Society." *Slavery & Abolition* 24: 1 (2003): 24–53.

Carstens, Johan L. *J. L. Carstens: En almindelig beskrivelse om alle de danske, americanske eller west-jndiske ey-lande*. København: Dansk Vestindisk Forlag, 1981.

—— *J. L. Carstens' St. Thomas in Early Danish Times: A General Description of All the Danish, American or West Indian Islands*, translated by Arnold R. Highfield. St. Croix: Virgin Islands Humanities Council, 1997.

Engerman, Stanley, Seymour Drescher, and Robert Paquette, eds. *Slavery*. "An Act for the Better Ordering and Governing of Negroes, 1661," 105–13. Oxford: Oxford University Press, 2001.

Faye Jacobsen, Anette. *Husbondret, rettighedskulturer i Danmark 1750–1920*. København: Museum Tusculanums Forlag, 2008.

Feldbæk, Ole. *Danske handelskompagnier 1616–1843: Oktrojer og interne ledelsesregler*. København: Selskabet for Udgivelse af Kilder til Dansk Historie, 1986.

Gaspar, David Barry. "'Rigid and Inclement': Origins of the Jamaica Slave Laws of the Seventeenth Century." In *The Many Legalities of Early America*, edited by Bruce H. Mann and Christopher L. Tomlins, 78–96. Chapel Hill: University of North Carolina Press, 2001.

Gaspar, David Barry. "With a Rod of Iron: Barbados Slave Laws as a Model for Jamaica, South Carolina, and Antigua, 1661–1697." In *Crossing Boundaries. Comparative History of Black People in Diaspora*, edited by Darlene Clark Hine and Jacqueline McLeod, 343–66. Bloomington: Indiana University Press, 1999.

Ghachem, Malick W. *The Old Regime and the Haitian Revolution*. Cambridge: Cambridge University Press, 2012.

Gøbel, Erik. *Vestindisk-guineisk Kompagni 1671–1754: Studier og kilder til kompagniet og kolonierne, med Peder Mariagers beretning om kompagniet*. Odense: Odense Universitetsforlag, 2015.

Goveia, Elsa V. *The West Indian Slave Laws of the 18th Century*. Barbados: Caribbean University Press, 1970.

Greene, Sandra E. "From Whence They Came: A Note on the Influence of the West African Ethnic and Gender Relations on the Organizational Character of the 1733 St. John Slave Rebellion." In *The Danish West Indian Slave Trade*, edited by Arnold R. Highfiled and George F. Tyson, 47–67. St. Croix: Virgin Islands Humanities Council, 1994.

Hadden, Sally. "The Fragmented Laws of Slavery in the Colonial and Revolutionary Eras." In *The Cambridge History of Law in America* edited by Michael Grossberg and Christopher Tomlins, 253–87. Cambridge: Cambridge University Press, 2008.

Hall, Neville A. T. "Slave Laws of the Danish West Indies in the Later Eighteenth Century." In *Comparative Perspectives on Slavery in New World Plantation Societies*, edited by Vera Rubin and Arthur Tuden, 174–85. New York: New York Academy of Sciences, 1977.

Hall, Neville A. T. *Slave Society in the Danish West Indies: St. Thomas, St. John and St. Croix*. Mona, Jamaica: University of the West Indies Press, 1992.

Handler, Jerome S. "Custom and Law: The Status of Enslaved Africans in Seventeenth-Century Barbados." *Slavery & Abolition* 37 (2016): 233–55.

Heinsen, Johan. "Dissonance in the Danish Atlantic: Speech, Violence and Mutiny, 1672–1683." *Atlantic Studies* (2015): 1–19.

——. *Mutiny in the Danish Atlantic World: Convicts, Sailors and a Dissonant Empire*. London: Bloomsbury Academic, 2017.

Klooster, Wim, and Gert Oostindie. *Realm between Empires: The Second Dutch Atlantic, 1680–1815*. Ithaca, N.Y.: Cornell University Press, 2018.

Krogh, Tyge. *Oplysningstiden og det magisk: Henrettelser og korporlige straffe i 1700-tallets første halvdel*. København: Samleren, 2000.

Lyngholm, Dorte Kook. *Godsejerens ret, adelens retshåndhævelse i 1700-tallet - lov og praksis ved Clausholm birkeret*. Auning: Dansk Center for Herregårdsforskning og Landbohistorisk Selskab, 2013.

Nicholson, Bradley J. "Legal Borrowing and the Origins of Slave Law in the British Colonies," *American Journal of Legal History* 38:1 (1994): 38–54.

Olden-Jørgensen, Sebastian. "Enevoldsarveregeringsakten og Kongeloven: Forfatningsspørgsmålet i Danmark fra oktober 1660 til november 1665." *Historisk Tidsskrift* 2 (1993): 295–321.

Olden-Jørgensen, Sebastian. "At vi maa frycte dig af idel kjærlighed: Magtudøvelse og magtiscenesættelse under den ældre enevælde." *Fortid og Nutid* 4 (1997): 239–53.

Olsen, Poul Erik. "*Danske Lov* på de vestindiske øer." In *Danske og Norske lov i 300 år*, edited by Ditlev Tamm, 289–321. København: Jurist- og Økonomforbundets Forlag, 1983.

Olwig, Kenneth Robert. *Landscape, Nature, and the Body Politic: From Britain's Renaissance to America's New World*. Madison: University of Wisconsin Press, 2002.

Oostindie, Gert, and Jessica V. Roitman, eds. *Dutch Atlantic Connections, 1680–1800: Linking Empires, Bridging Borders*. Leiden: Brill, 2014.

Palmer, Vernon Valentine. "The Origins and Authors of the *Code Noir*." *Louisiana Law Review* 56:2 (1996): 363–407.

Paton, Diana. "Punishment, Crime, and the Bodies of Slaves in Eighteenth-Century Jamaica." *Journal of Social History* 34:4 (2001): 923–54.

——. *The Cultural Politics of Obeah: Religion, Colonialism and Modernity in the Caribbean World*. Cambridge: Cambridge University Press, 2015.

Peabody, Sue. "Slavery, Freedom, and the Law in the Atlantic World, 1420–1807." In *The Cambridge World History of Slavery*, edited by David Eltis and Stanley L. Engerman, 594–630. Cambridge: Cambridge University Press, 2011.

Peytraud, Lucien Pierre. *Esclavage aux Antilles Françaises avant 1789*. Cambridge: Cambridge University Press, 1897.

Rupert, Linda M. *Creolization and Contraband: Curaçao in the Early Modern Atlantic World*. Athens: University of Georgia Press, 2012.

Schiltkamp, Jacob Adriaan, and J. Th. de Smidt, eds. *West Indisch plakaatboek: 1, Suriname, Plakaten, ordonnantiën en andere wetten uitgevaardigd in Suriname, 1667–1816*. Amsterdam: S. Emmering, 1973.

Schiltkamp, Jacob Adriaan, Jacobus Thomas de Smidt, and T. van der Lee, eds. *West Indisch plakaatboek: 2, Nederlandse Antillen Benedenwinden: publikaties en andere wetten alsmede de oudste resoluties betrekking hebbende op Curaçao, Aruba, Bonaire*. Amsterdam: Emmering, 1978.

Schiltkamp, Jacob Adriaan, Jacobus Thomas de Smidt, and T. van der Lee, eds. *West Indisch plakaatboek: 3, Nederlandse Antillen Bovenwinden: publikaties en andere wetten betrekking hebbende op St. Maarten, St. Eustatius, Saba 1648/1681–1816*, Amsterdam: Emmering, 1979.

Sebro, Louise. "Kreoliseringen af eurocaribierne i Dansk Vestindien: Sociale relationer og selvopfattelse." *Fortid og Nutid* 2 (2005): 83–102.

——. "The 1733 Slave Revolt on the Island of St. John: Continuity and Change from Africa to the Americas." In *Scandinavian Colonialism and the Rise of Modernity: Small Time Agents in a Global Arena*, edited by Magdalena Naum and Jonas M. Nordin, 261–74. New York: Springer, 2013.

Secher, V. A., ed. *Kong Christian den Femtis Danske Lov*. København: Schultz, 1891.

Sielemann, Rasmus Basse. *Natures of Conduct: Governmentality and the Danish West Indies*. Ph.D. diss. Saxo Institute, University of Copenhagen, 2015.

Simonsen, Gunvor. *Slave Stories: Law, Representation, and Gender in the Danish West Indies*. Aarhus: Aarhus University Press, 2017.

Stern, Philip D. *The Company-State: Corporate Sovereignty and the Early Modern Foundation of the British Empire in India*. Oxford: Oxford University Press, 2011.

Tamm, Ditlev, ed. *Danske og Norske lov i 300 år, festskriftet er udgivet i anledning af 300-året for udstedelsen af Christian V's Danske Lov*. København: Jurist- og Økonomforbundets Forlag, 1983.

Tamm, Ditlev, ed. *Retshistorie—Danmark—Europa—globale perspektiver*. København: Jurist- og Økonomforbundets Forlag, 2005.

Thomasson, Frederik. "Thirty-Two Lashes at Quatre Piquets: Slave Laws and Justice in the Swedish Colony of St. Barthélemy, ca. 1800." In *Ports of Globalisation, Places of Creolisation: Nordic Possessions in the Atlantic World during the Era of the Slave Trade*, edited by Holger Weiss, 280–305. Leiden: Brill, 2015.

Watson, Alan. *Slave Law in the Americas*. London: University of Georgia Press, 1989.

Westergaard, Waldemar. *The Danish West Indies under Company Rule (*1671–1754*)*: With a Supplementary Chapter, 1755–1917. New York: Macmillan Company, 1917.

Zacek, Natalie. *Settler Society in the English Leeward Islands, 1670–1776*. New York: Cambridge University Press, 2010.

Notes

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1 If not otherwise noted, translations from Danish and Dutch are my own. Carstens, *En almindelig beskrivelse*, 103, 107. The body metaphores in these citations are not rendered in the extant English translation, see Carstens, *St. Thomas*, 85, 88. The manuscript has traditionally been attributed to Johan Lorentz Carstens, who was born in the Danish West Indies. The author, however, describes Denmark as his birthplace, see Sebro, "Kreoliseringen af eurocaribierne."

2 The scholarship on the concept of the body politic is vast, see for instance Olwig, *Landscape, Nature, and the Body Politic*; Baecque, *The Body Politic*.

3 Aarhus Universitet, "Kongeloven," § 2. The literature on the introduction of absolute rule in Denmark in 1660 is quite extensive. It can be followed in Olden-Jørgensen, "Enevoldsarveregeringsakten og Kongeloven"; Olden-Jørgensen, "At vi maa frycte dig."
4 Secher, *Kong Christian den Femtis Danske Lov*, DL 1-1-1. See also Tamm, ed. *Danske og Norske lov*; Tamm, *Retshistorie*; Gøbel, *Vestindisk-guineisk Kompagni*, 39.
5 I adopt this term to emphasise that what Philip D. Stern has called the "products of government," including for instance laws, orders, minutes, and court proceedings, can be read as "ideological texts" containing notions about how rule should unfold in colonial settings; see Stern, *The Company-State*, 14. This also means that I am less interested in etching out the relation between legislation and court practice. For a study that traces this relationship, see Simonsen, *Slave Stories*, 137–69.
6 Benton, *A Search for Sovereignty*, 3–5, 23.
7 Ghachem, *The Old Regime*, 7–14. In a Danish West Indian context, this insight has also been noted in an analysis of law and policy in the second half of the eighteenth century, see Sielemann, "Natures of Conduct," 94–101.
8 Bro-Jørgensen, *Dansk Vestindien*, 1, 98–9, 119–29, 153.
9 Ibid., 47.
10 Ibid., 98–9, 108.
11 Ibid., 126.
12 Olsen, "Danske Lov," 292.
13 Ibid., 291–2.
14 Feldbæk, *Danske handelskompagnier*, 430.
15 Olsen, "Danske Lov," 298.
16 GTK 442, placard 1698-01-18.
17 GTK 442, placard 1722-08-21.
18 GTK 442, Anmærkninger til de 97 stk. efterskrifter af de for St. Thomas og St. Jan fra landenes optagelse udgivne plakater, 1786-10-13.
19 VGK 515, placards 1706-04-20.
20 GTK 442, placard 1711-07-11, and GTK 390, p. 359–63, slave code of 1733-09-05. Bro-Jørgensen, *Dansk Vestindien*, 1, 199–202; Simonsen, *Slave Stories*, 45–76,137–69.
21 GTK 442, placard 1672-08-08 § 13. For a similar argument in relation to the Anglophone Caribbean see Handler, "Custom and Law."
22 GTK 442, see for example placard 1694-12-19 and 1700-06-11.
23 See the references provided in note 67.
24 GTK 442, placard 1684-11-24.
25 GTK 442, placard 1688-11-10 and 1694-12-19.
26 Bro-Jørgensen, *Dansk Vestindien*, 1, 86–89, 96.
27 Danish legal historians have seen this article as well as the presence of estate courts (i.e., *birkeretter*), which were to decide according the royal law and ordinances, as signs of legal pluralism; see for instance Lyngholm, *Godsejerens ret*; Faye Jacobsen, *Husbondret*. The latter author seems to imply that the mere sanction of elites' castigatory rights can be understood as a sign of legal pluralism. It is worth noting, however, that this interpretation risks collapsing differences between and changes in legal regimes. Lauren Benton suggests that we distinguish between state-centred and multi-centred legal orders and pay attention to degrees of legal pluralism. With these considerations in mind, it is possible to see that the Danish West Indies were characterised by a more multicentered legal order and a stronger legal pluralism than Denmark in the late seventeenth and early eighteenth centuries (see Benton, *Law and Colonial Cultures*, 7–12).
28 Engerman et al., "An Act," 105–13; *Code noir* of 1685 in Peytraud, *Esclavage*, 158–66. See also Palmer, "The Origins"; Watson, *Slave Law*; Gaspar, "With a Rod of Iron"; Gaspar, "'Rigid and Inclement'"; Nicholson, "Legal Borrowing."
29 GTK 442, placard 1698-05-28.
30 VGK 502, 1702-04-26 and 1702-05-03. The court protocol for 1702 that may disclose the verdict in the case against Tessemacker is unavailable to the public, presumably due to its poor condition. *Justitien* was a concept referencing the abstract notion of justice and the legal institutions securing it. Here I translate it as law. The particular ideological

context undergirding the postmortem mutilation of enslaved people's bodies is explored by Brown, "Spiritual Terror" and Paton, "Punishment."

31 GTK 411, placard 1688-03-29.
32 GTK 442, placard 1688-11-10.
33 GTK 442, placard 1726-08-19.
34 Bro-Jørgensen, *Dansk Vestindien*, 1, 226.
35 GTK 442, placard 1731-10-24.
36 GTK 442, placard 1684-10-16, 1684-11-24, 1688-11-10, 1700-06-01, 1711-07-11, and 1723-05-15.
37 GTK 442, placard 1672-08-08.
38 GTK 442, placard 1688-11-10.
39 GTK 442, placard 1698-05-28.
40 GTK 442, placard 1715-11-09, 1723-05-15, and 1726-08-19.
41 GTK 442, placard 1700-06-01 and 1711-07-11.
42 GTK 442, placard 1711-07-11.
43 Bro-Jørgensen, *Dansk Vestindien*, 1, 98–113, 119–28.
44 Hall, *Slave Society*, 43.
45 VGK 489, 02-09-1733.
46 GTK 442, placard 1700-06-01 and 1711-07-11.
47 Westergaard, *The Danish West Indies*, 166–7; the rebellion on St. John is analysed by Greene, "From Whence They Came," and by Sebro, "The 1733 Slave Revolt."
48 VGK 515, placards 1706-04-20, and GTK 390, p. 359–63, slave code of 1733-09-05.
49 GTK 390, p. 359–63, slave code of 1733-09-05.
50 See the paraphrase of Jean Bodin's description of sovereign prerogatives in Benton, *A Search for Sovereignty*, 287–8.
51 VGK 515, placard 1706-04-20.
52 Westergaard, *The Danish West Indies*, 166.
53 VGK 515, placards 1706-04-20.
54 Bro-Jørgensen, *Dansk Vestindien*, 1, 199–204.
55 VGK 176, 1736-08-10.
56 Krogh, *Oplysningstiden*, 355–69.
57 VGK 176, 1736-08-10.
58 Louisiana's *Code noir* of 1724 differed from the 1685 code in a number of aspects. One of the main differences was the 1724 prohibition of marriages between whites and blacks, which was also found in Gardelin's proposal. See Aubert, "'To Establish One Law.'"
59 Simonsen, *Slave Stories*, 49.
60 VGK 176, 1736-08-10.
61 GTK 390, p. 359–63, slave code of 1733-09-05.
62 Krogh, *Oplysningstiden*, 119–50.
63 VGK 176, 1736-08-10.
64 This conclusion is based on the published placards for the Dutch islands from their establishment up to 1733, see Schiltkamp, *West Indisch plakaatboek: 1*; *West Indisch plakaatboek: 2*; *West Indisch plakaatboek: 3*.
65 The Barbados act merely stated that Africans were "created Men though without the knowledge of God" and the *Code noir* operated with the full conversion of Africans, which made particular laws against African religions irrelevant, see Engerman, "An Act," 105; and the *Code noir* of 1685 in Peytraud, *Esclavage*, 158–9. For an overview of the absent provisions against African "magic" in the British Caribbean in the first half of the eighteenth century, see Paton, *The Cultural Politics*, 17–42.
66 VGK 489, 1735-10-31; see also Krogh, *Oplysningstiden*, 102.
67 VGK 176, 1736-08-10.
68 Goveia, *The West Indian*; Peabody, "Slavery," 601–4; Hadden, "The Fragmented Laws," 259–63; see also Thomasson, "Thirty-Two Lashes."
69 In making this argument, Hall substantiated the interpretation provided by Westergaard, *The Danish West Indies*, 179; Hall, "Slave Laws."
70 Hall, *Slave Society*, 1–33. For recent work that emphasises the unruly and violent nature of the first years of Danish presence on St. Thomas see also Heinsen, "Dissonance"; Heinsen, *Mutiny.*
71 Bro-Jørgensen, *Dansk Vestindien*, 1, 106–43.
72 Oostindie and Roitman, *Dutch Atlantic*, 1–21, quote 21.
73 Zacek, *Settler Society*, 3–5.
74 Klooster and Oostindie, *Realm between Empires,* 156–60.