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978-0-521-83680-7 - The Old Regime and the Haitian Revolution

Malick W. Ghachem

Excerpt

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Introduction

“What is a Revolution?” asked a *Revolutionary Catechism* published in year two of the French Republican calendar (1793–1794). Came the answer: “It is a violent passage from a state of slavery to a state of liberty.”¹ The Jacobin ideology encapsulated in this formulation was no less heartfelt or effective for its metaphorical character. The use of the word slavery to evoke the oppressions of a despotic form of government was common to classical republicans of both the American and French revolutions.² Yet the late eighteenth century also witnessed a more literal example of the catechistic definition of a revolution.

On a strict construction of the catechism, the Haitian Revolution of 1789–1804 was the quintessential revolution of the “Age of Revolutions.” Even today, it stands as the only instance of a victorious war of slave

¹ *Catéchisme révolutionnaire, ou L'histoire de la Révolution française, par demandes et par réponses: à l'usage de la jeunesse républicaine, et de tous les peuples qui veulent devenir libres* (Paris: Debarle, 1793–1794), 3, also quoted in Michel Vovelle, *La mentalité révolutionnaire: Société et mentalités sous la Révolution française* (Paris: Éditions sociales, 1985), 103. Unless otherwise noted, all translations in this book are my own.

² On the equation of British imperial rule with slavery in radical Whig pamphlets of the American Revolution, see Bernard Bailyn, *The Ideological Origins of the American Revolution*, enl. ed. (Cambridge, MA: Harvard University Press, 1992), 119–120, 122, 232–234. The paradigmatic example on the French revolutionary side is Jean-Paul Marat's *The Chains of Slavery*, originally published in English in 1774 and republished in French in 1793. See Keith M. Baker, “Transformations of Classical Republicanism in Eighteenth-Century France,” *Journal of Modern History* 73 (2001): 43–44; idem, “Political languages of the French Revolution,” in *The Cambridge History of Eighteenth-Century Political Thought*, ed. Mark Goldie and Robert Wokler (New York: Cambridge University Press, 2006), 643.

liberation on a national scale.³ In 1804, the leaders of the formerly enslaved population of Saint-Domingue announced the independence of Haiti, ending more than a century of French colonial rule in the Caribbean territory and creating the first independent black state. The Haitian Revolution forever transformed New World slavery and the Atlantic world more generally, providing the single most important inspiration for slave resistance and abolitionism in the modern era.⁴ Moreover, by driving Napoleon to abandon his dream of restoring the French Caribbean empire and to sell Louisiana to the United States in 1803, the Haitian Revolution initiated a long-term shift in the geopolitical orientation of the French empire.⁵ It also greatly facilitated the westward expansion and rise of the cotton-plantation economy of the United States, with consequences that can be most clearly seen in the events of the American Civil War. Indeed, the distinctive imprint of Haitian revolutionary ideology can be seen as far down as the litigation that produced the Supreme Court's 1896 decision in *Plessy v. Ferguson*. The notion of "public rights" that Homer Plessy embraced in that case to challenge (unsuccessfully) Louisiana's railway-car segregation law was the outgrowth of an Atlantic tradition of anti-caste activism engendered by free people of color who emigrated from Saint-Domingue to Louisiana during and after the Haitian Revolution.⁶

Such considerations underscore the inherent drama of the Haitian Revolution as a (violent) passage from slavery to freedom. For many late-eighteenth- and early-nineteenth-century observers, including erstwhile planters and others writing from a proslavery or reactionary perspective,

³ The eighteenth-century maroon wars of Jamaica and Suriname succeeded in ending slavery in parts of those colonies, but only in Saint-Domingue did slaves manage to eliminate colonial slavery throughout the entire territory in which it had taken root. On the Jamaican and Surinamese maroons, see Richard Price, ed., *Maroon Societies: Rebel Slave Communities in the Americas*, 3rd ed. (Baltimore, MD: The Johns Hopkins University Press, 1996), 227–311.

⁴ Even scholars who take a relatively modest view of the impact of the Haitian Revolution agree that its success almost certainly made it much easier for Britain to end involvement in the slave trade in 1807 and then to abolish plantation slavery in 1833 without concern that these measures would advantage its longtime political and commercial rival, France. See David Geggus, "The Caribbean in the Age of Revolution," in *The Age of Revolutions in Global Context, ca. 1760–1840*, ed. David Armitage and Sanjay Subrahmanyam (New York: Palgrave Macmillan, 2010), 91.

⁵ On this shift, see David Todd, "A French Imperial Meridian, 1814–1870," *Past and Present* 210, no. 1 (Feb. 2011): 155–186.

⁶ Rebecca J. Scott, "The Atlantic World and the Road to *Plessy v. Ferguson*," *Journal of American History* 94, no. 3 (2007): 726–733; idem, "Public Rights, Social Equality, and the Conceptual Roots of the *Plessy* Challenge," *Michigan Law Review* 106 (2008): 784–786.

that narrative of rupture was tragic in nature: a story of loss and catastrophe fueled by images of retributive black-on-white violence. Indeed, for much of the outside world until well into the twentieth century, “[t]he enduring memory of the Haitian Revolution was ... [Jean-Jacques] Dessalines,” who as emperor of Haiti ordered the 1805 massacre of most of the whites then remaining in the former slave colony.⁷ The American historian Ulrich Bonnell Phillips, for example, subsumed the Haitian Revolution under the rubric of “slave crime” in his 1918 study, *American Negro Slavery*.⁸ For others, most notably the descendants of free people of color and slaves in nineteenth-century Haiti and elsewhere in the Atlantic world, the operative tale was progressive and heroic. Many contemporary Haitians remember the violence of their revolutionary heritage as an inspirational display of physical courage and perseverance in the face of great and long-standing suffering.

From its origins in the early nineteenth century to our own day, the rupture narrative that is shared by these competing images has served to suppress other kinds of stories that can be told about the Haitian Revolution: stories of continuity rather than change, of irony and unintended consequences rather than catastrophe or emancipation. The task of understanding the Haitian Revolution *as* a revolution, in other words, has proven to be a deceptively simple one. The dramatic discontinuity effected by the events of 1789–1804 has obscured critical aspects of their genesis and, thus, also their character. In this book, I set aside the still resonant image of the Haitian Revolution as a violent and sudden passage from slavery to freedom in favor of a different motif. Simply put, my thesis is that emancipation in Haiti was also a long-term product of its colonial history. For the Haitian revolutionaries, like all other revolutionaries before and since, did not succeed altogether in their effort to

⁷ David Brion Davis, *Inhuman Bondage: The Rise and Fall of Slavery in the New World* (New York: Oxford University Press, 2006), 172. See also Malick W. Ghachem, “The Colonial Terror,” paper read at the Wednesday colloquium of the Dubois Institute for African and African American Research, Harvard University, December 10, 2003; and Laurent Dubois, “Avenging America: The Politics of Violence in the Haitian Revolution,” in *The World of the Haitian Revolution*, ed. David Patrick Geggus and Norman Fiering (Bloomington: University of Indiana Press, 2009), 111–124.

⁸ Ulrich Bonnell Phillips, *American Negro Slavery: A Survey of the Supply, Employment and Control of Negro Labor As Determined by the Plantation Regime* (New York: D. Appleton, 1918), 467–469, also quoted in Vincent Brown, “A Vapor of Dread: Observations on Racial Terror and Vengeance in the Age of Revolution,” in *Revolution! The Atlantic World Reborn*, ed. Thomas Bender, Laurent Dubois, and Richard Rabinowitz (New York: D. Giles, for the New York Historical Society, 2011), 198 n.32.

“sever their past from their future, as it were, and hollow out an abyss between what they had been and what they wished to become.” Thus, to borrow Tocqueville’s words again, if we want to understand what happened in Haiti between 1789 and 1804, we must close our eyes periodically to the Haiti of those years, and of the years that have passed since, and “begin our investigation at the tomb of the [Haiti] that is no more.”⁹

As its title suggests, this book seeks to interrogate the relationship between the Old Regime and the Haitian Revolution, and in doing so frames a long eighteenth-century continuity between the colonial and revolutionary periods of Haitian history. Within that historical frame, the law of slavery was a profoundly important factor. Between the Code Noir of 1685 – which laid the foundations of the law of slavery in Saint-Domingue – and the declaration of Haitian independence in 1804, a world of violent and persistently evocative collective memories was formed. That world has been largely divided into separate compartments of “colonial” and “revolutionary” history, at significant cost to our understanding of both. The Haitian Revolution was undeniably a “violent passage from a state of slavery to a state of liberty,” but violence was not the only means of the revolution, and the revolutionary era is not the only time frame relevant to understanding how and why the passage occurred as it did.

Indeed, where the colony’s free people of color were concerned, the revolutionary period was the end, rather than the beginning, of a process of liberation from slavery. The manumission of slaves was already a practice of long-standing pedigree in Saint-Domingue by 1789, fueling a dramatic growth in the size of the free colored population that had few parallels in the colonial Americas (although freed persons continued to face a daunting array of discriminatory measures well after they were freed, particularly in the aftermath of the Seven Years’ War of 1754–1763.)¹⁰ Moreover, the servitude of slaves itself underwent significant changes over the course of the colonial period – at the level of both experience and representation – which helped determine the manner in which slavery was eventually abolished.¹¹

⁹ Alexis de Tocqueville, *The Ancien Régime and the French Revolution*, ed. Jon Elster, trans. Arthur Goldhammer, Cambridge Texts in the History of Political Thought (New York, NY: Cambridge University Press, 2011), 1.

¹⁰ Carolyn E. Fick, “The French Revolution in Saint Domingue: A Triumph of a Failure?” in *A Turbulent Time: The French Revolution and the Greater Caribbean*, ed. David Patrick Geggus and David Barry Gaspar (Bloomington: Indiana University Press, 1997), 55.

¹¹ For a tentative discussion of changes in the conditions of enslavement in Saint-Domingue during the late colonial period, see David Geggus, “Saint-Domingue on the Eve of Revolution,” in Geggus and Fiering, *The World of the Haitian Revolution*, 9–12.

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In emphasizing the role of the law of slavery in Haiti's long-term, eighteenth-century transformation, my purpose is to highlight how the outer boundaries of an oppressive legal system – in this case, the regime of the Code Noir – can be refashioned, over time and through the combined efforts of often conflicting groups and individuals, into a source of emancipation. In this reading of the law of slavery, slaves and free people of color were, to be sure, actors and not merely subjects: They proactively engaged with the law of slavery and eventually transformed it, even as the law of slavery consistently operated on them, often with a disturbing ruthlessness.¹² However, I equally show that planters, the kingpins of this world, were subjects of and not merely agents in the legal universe that Atlantic slavery created. The author of an anonymous 1847 pamphlet, seeking to demonstrate the assimilability of colonial law into a metropolitan framework, observed that the Code Noir was “no less the code of the whites than that of the blacks.”¹³ We need not go this far to recognize that the law of slavery sought to control the actions of masters as well as slaves, whites and persons of African descent (both slave and free) alike.

The Code Noir (or “Black Code”) was a system of tremendously invidious racial domination, but its maintenance required different forms of control at different times, particularly with respect to the regulation of manumission and planter brutality. These methods of control sometimes pitted the colonial administration against those very persons whose interests are often identified with the law of slavery: the planters, a group that, in Saint-Domingue, included both whites and significant numbers of free people of color. The law of slavery evolved over the course of the colonial period as a result of many different individual interactions and contests between administrators, jurists, white planters, free people of color, and slaves. At a number of its most critical turning points – including the free colored movement for political rights in 1789–1792 and the abolition of slavery in 1793 and 1794 – the Haitian Revolution reflects the unintended legacies of these colonial conflicts and collaborations. In its most general form, this is the story I tell in the following pages.

There are lessons to be found here for other experiences of legal oppression and transformation, both earlier and later, colonial and non-colonial, in the Atlantic world and elsewhere. Few laws are so immaculately designed, few decisional principles so clearly drawn, as to leave

¹² Cf. Robert Olwell, *Masters, Slaves, & Subjects: The Culture of Power in the South Carolina Low Country, 1740–1790* (Ithaca, NY: Cornell University Press, 1998), 6–10.

¹³ *De la représentation des colonies dans le parlement* (Paris: Librairie d’Amyot, 1847), 10.

no room at all for creative tinkering with their margins, for indirect critiques, unintended applications, and reinterpretations that can eventually circle back to draw in question the premises that underlie those laws and principles. The story of the Code Noir showcases the imaginative opportunities that exist for disenfranchised persons and their advocates to reconfigure the cards they have been dealt and to arrange them in a hand that comes closer to justice. I hope that this message, in the unromantic form of a study in legal continuities, will reach such individuals.

This is, however, first and finally a book about Haiti, a nation that, to an uncommon degree, was long entrapped in the categories imposed on its own passage out of slavery. As historians of the French Revolution have recognized, the question of the *Revolutionary Catechism* was not an innocent or abstract one. By answering that a revolution entails the violent replacement of slavery with liberty, the *Catechism* sought to justify the use of the guillotine to eliminate the political enemies of Robespierre and his fellow Jacobin revolutionary leaders during the so-called Reign of Terror. Since the time of its unfolding, the Haitian Revolution has been questioned, if not indicted, for its complicity with this understanding of violence as a natural and necessary means of revolutionary change. Unlike the Haitian revolutionaries, however, the Jacobins in France did not themselves have to labor under the special burdens that racial subordination imposes.¹⁴ The dilemma of the Haitian Revolution has always been that of a “no-win” situation, in David Brion Davis’s words.¹⁵ It requires a great deal of idealism, racism, or both to believe that liberation from slavery in Saint-Domingue could have come without the willingness of slaves to use physical force against their oppressors. Yet the roots of Haiti’s no-win dilemma were far deeper and more complex than the competing versions of the rupture thesis and their extant manifestations suggest, for those roots involved problems of law as well as violence. Colonial law set many of the terms of the Haitian Revolution, including the terms by which violence was or was not used. Whatever we may conclude about the Haitian Revolution, we cannot think of it solely in

¹⁴ In 1817, Germaine de Staël contrasted the relative tranquility of the seventeenth-century English revolution with the fourteen months of the Reign of Terror in France. She concluded from this comparison that “no people had ever been as fortunate for a hundred years as the French people. If the Negroes of Saint-Domingue have committed even more atrocities, it is because they had been all the more oppressed.” “It does not flow from these reflections,” she continued, “that the crimes [of the Terror] merit less hatred.” Germaine de Staël, *Considérations sur la Révolution française*, ed. Jacques Godechot (Paris: Tallandier, 2000), 303–304.

¹⁵ Davis, *Inhuman Bondage*, 172.

relation to itself; rather, we must consider it as part and parcel of the larger human tragedy that was Atlantic slavery.

The Code Noir occupies center stage in this account. But what exactly was the Code Noir? In the narrowest sense, the phrase served (as of the early eighteenth century) to denote the text of Louis XIV's 1685 edict itself: fifty-nine articles that spanned the gamut of topics ranging from religion and marriage to punishment, property, and manumission. More broadly, it also signified the full array of eighteenth-century laws, regulations, and judicial decisions concerning the relationship between masters, slaves, and free people of color in the French colonies.¹⁶ If the emancipation of Saint-Domingue took place through law as well as violence, and over a period of many more years than the fifteen we associate with the Haitian Revolution *per se*, it is at least in part because the Code Noir was transformed over this long period in ways that its framers did not always intend or even imagine. This transformation, in turn, suggests a third meaning of the phrase "Code Noir." More than a corpus of free-standing legal texts, the Code Noir was the subject of a permanent debate in colonial and revolutionary Haiti, a debate that was a key part of the colony's overall culture and the very essence of its legal culture. To recapture the terms of that debate is to grasp some of the more covert mechanisms of Haiti's long passage from slavery to freedom.

This is not, however, a story of total transformation, for there are tantalizing clues in the prehistory of the Code Noir indicating that the dilemma of how to maintain stability in a slave society was already recognized as an old one by 1685. The nature of this dilemma was such that it generated a special kind of concern about the radical tendencies of slave societies, a concern that, similarly, is much older than (if distinguishable from) the antislavery and abolitionist thought we associate with the revolutionary era. The law of slavery in Saint-Domingue posited a state of chronic danger that flowed naturally from the forms of domestic license and coercion at work in plantation society. The strategic ethics of this regime were shaped by many factors, but most prominently and persistently by an ambivalent preoccupation with manumission and planter brutality: the polar extremes of slave society. That same ambivalent anxiety later structured the encounters between leading free people of color, slave insurgents, and successive French revolutionary governments in the contingent course of events that was the Haitian Revolution.

¹⁶ As in the title of this 1743 compilation, for example: *Code noir, ou Recueil d'édits, déclarations et arrêts concernant les esclaves nègres de l'Amérique* (Paris: Libraires associés, 1743).

By the “strategic ethics” of slavery, I understand a mode of legality that is essentially instrumental or pragmatic in its orientation, and a style of criticism that is concerned primarily with the stability and efficacy of slavery as opposed to its injustice. A strategic ethics is an ethics of prudence: It seeks to avoid reckless conduct that threatens the ship of state. Moreover, it embraces “prudent government” in the further sense that it is distinct from (although not incompatible with) humanitarian concerns.¹⁷ A strategic ethics embodies, first and foremost, the seemingly neutral calculation of aggregate social welfare – understood in this context to mean the well-being of the plantation order – rather than a set of normative commitments to individual human rights.¹⁸

Such a pragmatic orientation toward political and social institutions does not decide the substantive content of one’s views about those institutions. Instrumentalism has no necessary or inherent normative implications, but is rather a highly malleable, open-ended style of thought.¹⁹ As an abstract matter, it can and does swing either for or against the status quo. However, in early modern slave societies such as Saint-Domingue – and perhaps in Saint-Domingue above all – the subtext of this ethics of prudence was hardly an abstract matter. The tactical deliberations of those who participated in the regime of the Code Noir revolved around a set of quite specific practices that were believed to pose “systemic” risks to the survival of the plantation economy. It was the concrete implications of these practices – not merely a strategic or instrumental attitude per se – that influenced the relative balance between change and continuity in the eighteenth-century Atlantic world. Yet the ideological scaffolding that grew up around the practices and institutions of slavery was inseparable from their real-world consequences.

¹⁷ For the use of this phrase, see Chapter 3.

¹⁸ Gordon Lewis discusses the “policy of prudence” that informed attitudes toward plantation slavery in the French colonies and elsewhere. He connects this policy to proslavery ideology rather than to the critique of slavery, and emphasizes its limitations in the face of a “policy of terror” to which prudence was opposed. Gordon K. Lewis, *Main Currents in Caribbean Thought: The Historical Evolution of Caribbean Society in its Ideological Aspects, 1492–1900* (Lincoln: University of Nebraska Press, 2004), 165–168. According to Lewis, “[t]he arguments of the reformers in favor of better treatment of the slaves – more protection, for example, in the courts – were in themselves proslavery, since better treatment was seen as weakening the case for early emancipation.” *Ibid.*, 168. As I will explain further, the experience of Saint-Domingue suggests a messier, less coherent relationship between prudence and proslavery ideology than this.

¹⁹ Cf. Morton Horwitz, *The Transformation of American Law, 1780–1860* (Cambridge, MA: Harvard University Press, 1979), 1–2 (identifying the rise of an instrumental conception of American law in the late eighteenth and early nineteenth centuries with the rise of a market economy and the judicial promotion of economic development).

Put differently, the law of slavery in Saint-Domingue was both highly imaginative and mundane: It conjured up ancient images of slaves even as it called on the contemporaneous power of local intuitions and everyday experiences, in a manner that recalls Clifford Geertz's definition of law as a "complex of characterizations and imaginings [and] stories about events cast in imagery about principles."²⁰ French colonial slave law was just such a complex of characterizations, imaginings, and stories, translated insistently by administrators, jurists, and planters into a set of formal principles concerning the maintenance of what Jean Bodin called "the well-ordered commonwealth" ("la république bien ordonnée"). The concept of the well-ordered commonwealth, as it was reflected in both doctrinal and administrative writings of the early modern French empire, runs throughout the narrative arc of this book.

The motif of the well-ordered commonwealth resonated in Saint-Domingue largely because of its relationship to a second motif that runs through the life of the Code Noir: an anxiety about the retributive impulses of slaves as the "natural enemies of society" (to use Montesquieu's phrase).²¹ The merger of these two themes is perhaps best reflected in Bodin's discussion of the dangers of slavery to a stable polity in his *Six Books of a Commonwealth* (first published in 1576). There, Bodin invoked what he called an "ancient proverb" – "So many slaves, so many enemies in a man's house" – to sum up the lessons of four thousand years of historical experience with slaves.²² This was not merely a political-theoretical hypothesis. As the governor of Saint-Domingue warned his metropolitan superior in 1685, the year of the Code Noir, "In our slaves we have domestic enemies."²³

French colonial slave law, above all as applied in Saint-Domingue, took shape against the backdrop of this powerful image of slaves and of the nature of master-slave relations. Almost by its very nature, that image served to conjure up, at the social level, the prospect of a slave

²⁰ Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books, 1983), 215.

²¹ Charles-Louis de Secondat, Baron de Montesquieu, *The Spirit of the Laws*, trans. Anne M. Cohler et al., Cambridge Texts in the History of Political Thought (Cambridge, UK: Cambridge University Press, 1989), 256.

²² Jean Bodin, *The Six Bookes of a Commonweale: A Facsimile reprint of the English translation of 1606 Corrected and supplemented in light of a new comparison with the French and Latin texts*, trans. Richard Knolles trans., ed. Kenneth Douglas McRae (Cambridge, MA: Harvard University Press, 1962), 45 (emphasis in the original). I have modernized the spelling of this translation throughout.

²³ Report of Pierre-Paul Tarin de Cussy, governor, to Jean-Baptiste Colbert de Seignelay, naval minister, 18 Oct. 1685, Archives nationales d'outre-mer [hereafter ANOM], Correspondance générale Saint-Domingue [hereafter CGSD], C/9A/1, fol. 250.

revolution. Future-oriented speculation about the fate of colonial slavery; predictions of the turbulence that would flow from a failure to heed the warnings of administrators attuned to the inherent instabilities of slave society; prophecies of racial violence on a greater or lesser scale – these were significant aspects of the political and legal culture of Saint-Domingue well before the French and Haitian Revolutions.²⁴ The colonial imagination was broad enough to associate such prospects with a revealingly wide range of events, behaviors, and worldviews. Although the fear of violent slave unrest was pervasive in the eighteenth-century Atlantic world, the preoccupation with analyzing and counteracting its putative sources was especially pronounced in colonial Haiti.²⁵ French colonial administrators and planters identified the specter of black revolt with everything from earthquakes and famines to Jesuit proselytism, freemasonry, and vodou. The British were among the usual suspects, but so too were the Spanish, the maroons (fugitive slaves) of Jamaica, and the maroons of Saint-Domingue. Even the sound of slaves drumming and dancing at night in the countryside and the boisterous communing of slaves and free people of color alike in the colony's urban taverns evoked genuine alarm.

Over the course of the eighteenth century, however, two potential sources of the downfall of the colonial commonwealth stood out with a special consistency in the minds of administrators, jurists, and commentators: manumission and planter brutality. In order to guard against the threat of a slave revolution, administrators sought to impose effective restraints on these two seemingly contradictory tendencies of France's flagship colony in the New World. The site of rampant brutality, Saint-Domingue also offered slaves access to manumission at higher rates than any other plantation society before or since.²⁶ Under the original terms of the Code Noir, masters were at liberty, during their lifetimes or at the

²⁴ For a stimulating discussion of an analogous strain in eighteenth-century metropolitan French political culture emphasizing the relationship between public debt and the militarization of the state, see Michael Sonenscher, *Before the Deluge: Public Debt, Inequality, and the Intellectual Origins of the French Revolution* (Princeton, NJ: Princeton University Press, 2007).

²⁵ Cf. Geggus, "Saint-Domingue on the Eve of the Haitian Revolution," 3–5, which seems to me to go too far in the direction of making this question of political and legal culture a strictly empirical matter of the actual incidence of slave rebellion in the colonial era.

²⁶ Fick, "The French Revolution in Saint-Domingue," 55–56; John D. Garrigus, *Before Haiti: Race and Citizenship in French Saint-Domingue* (New York: Palgrave Macmillan, 2006), 4–5. For the population growth rates in Saint-Domingue, see Jean Meyer, "Des origines à 1763," in Jean Meyer, Annie Rey-Goldzeiguer, and Jean Tarrade, *Histoire de la France coloniale*, vol. 1, *La conquête*, (Paris: Armand Colin, 1991), 136.