



Title	Slavery and Financial Compensation in Great Britain, France, the United States, and the Netherlands : A Comparative Legal-Historical Perspective
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Citation	Osaka University Law Review. 2025, 72, p. 23-56
Version Type	VoR
URL	https://hdl.handle.net/11094/100520
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Slavery and Financial Compensation in Great Britain, France, the United States, and the Netherlands: A Comparative Legal-Historical Perspective¹⁾

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Abstract

Great Britain, France, the Netherlands, and the United States abolished slavery in the nineteenth century, but the legacy of the harrowing practice continues to haunt these countries. They are consistently called on to recognise the immorality of the institution, apologise for their involvement therein, take measures to repair the damage caused to the countries and population groups involved, and offer financial compensation to the descendants of its victims individually. However, most of these states are reluctant to answer these calls.

Some activists have made repeated efforts to legally force states to provide financial compensation, but this litigation has proved unsuccessful so far mostly due to the lapse of time and resulting difficulty of identifying the victims. However, the failure of civil litigation has not ended the discussion about compensating the descendants of enslaved persons. Compensation can also be pursued by more political means.

In this context, there are relevant debates surrounding the financial consequences of the abolition of slavery in the nineteenth century. After all, several fundamental questions had to be answered in the process of emancipation: Who should be compensated? What should be the legal basis

1) This contribution is a translated and revised version of Peter A.J. van den Berg, 'Slavernij en financiële compensatie: een rechtshistorisch perspectief' in: N.C. Luk/R. Bonnevalle-Kok/B. Deogratias/B. Huiskes (eds.), *Fruta di nos hofi* (Zutphen: Paris Legal Publishers 2024), p. 269-282.

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for this compensation? Who should bear the financial burden of emancipation? Interestingly, these debates show that slavery was already generally regarded as immoral at the time of abolition, which weakened the legal claim of the ‘owners’ of the freed slaves and strengthened the position of those freed. Thus, compensation became more a political than legal issue, where the outcome predominantly depended on the strength of a lobby and the funds and assets available.

1. Introduction

In the nineteenth century, Great Britain, France, the Netherlands, and the United States abolished slavery, but its legacy continues to haunt these countries. They are consistently called on to recognise the immorality of the institution, apologise for their involvement therein, attempt to repair the damage caused to the countries affected, and offer financial compensation to the individual descendants of its victims.³⁾ A landmark in this movement is the ‘Ten Point Plan for Reparatory Justice’ adopted by the Caricom Reparations Committee in March 2014, which outlines the path to reconciliation, truth, and justice for victims of slavery and their descendants.⁴⁾ It demands, among other things, a full formal apology and calls for the cancellation of the debts of the Caribbean states arising

3) See for literature on the issue of financial compensation for slavery among many more: R. Robinson, *The debt. What America owes to blacks* (New York: Dutton 2000). D.T. Osabu-Kle, ‘The African reparation cry: rationale, estimate, prospects, and strategies’ in: *Journal of Black Studies* 30/3 (2000), p. 331-350. D. Conley, ‘Calculating slavery reparations. Theory, numbers, and implications’ in: J. Torpey (ed.), *Politics and the past. On repairing historical injustices* (Lanham/Boulder/New York/Oxford: Rowman & Littlefield 2003), p. 117-125. C.J. Ogletree, ‘Repairing the past: new efforts in the reparation debate in America’ in: *Harvard Civil Rights–Civil Liberties Law Review* 38 (2003), p. 279-320. T. McCarthy, ‘Coming to terms with our past, part II: on the morality and politics of reparations for slavery’ in: *Political Theory* 32/6 (2004), p. 750-772. A. Zunder, *Herstelbetalingen. De ‘Wiedergutmachung’ voor de schade die Suriname en haar bevolking hebben geleden onder het Nederlands kolonialisme* (The Hague: Amrit 2010). N. Wittmann, ‘An international law deconstruction of the hegemonic denial of the right to reparations’ in: *Social and Economic Studies* 68/3-4 (2019), p. 103-126. W.A. Darity jr./A.K. Mullen, *From here to equality. Reparations for black Americans in the twenty-first century* (Chapel Hill, NC: The University of North Carolina Press 2020).

4) CARICOM is an alliance of Caribbean states. The Caricom Reparations Committee (CRC) was established in 2013.

from colonialism and slavery.⁵⁾ Notably, the ‘Ten Point Plan’ does not include a proposal to compensate individual descendants of enslaved persons.

Most of these states have not responded to this pressure. The governments of Britain and the United States have not adopted significant measures in this respect, likely due to feared financial consequences.⁶⁾ France enacted the *loi Taubira* in 2001, declaring slavery a ‘crime against humanity’, but this act did not include apologies for its own involvement in slavery, let alone an offer to provide reparations.⁷⁾ The steps recently taken by the government of the Netherlands are probably the most extensive. On 19 December 2022, Dutch Prime Minister Mark Rutte apologised for the fact that the State of the Netherlands had allowed and promoted the slave trade and slavery.⁸⁾ On 1 July 2023, 160 years after the abolition of slavery in Surinam and the Dutch Caribbean, King Willem-Alexander

5) See paragraphs 1 and 10 of the ‘CARICOM Ten Point Plan for Reparatory Justice’, <https://caricom.org/caricom-ten-point-plan-for-reparatory-justice/> (last accessed 17 July 2024). G. Matthews, ‘The Caribbean reparation movement and British slavery apologies: an appraisal’ in: *Journal of Caribbean History* 51/1 (2017), p. 80-104 (80-81 and 95-98, where the text of the ‘Plan’ is printed).

6) M. Biondi, ‘The rise of the reparations movement’ in: M.T. Martin/M. Yaquinto (eds.), *Redress for historical injustices in the United States. On reparations for slavery, Jim crow, and their legacies* (Durham, NC/London: Duke University Press 2007), p. 255-269. In April 2023, British Prime Minister Rishi Sunak explicitly rejected the offering of apologies. See: <https://www.bbc.com/news/uk-politics-65401579>. Note that in 2008, the US Congress adopted a resolution apologizing for slavery. The British cities Liverpool (1999) and London (2007) have also offered formal apologies. N. Frith/J.H. Scott, ‘Introduction. National and international perspectives on movements for reparations’ in: *The Journal of African American History* 103/1-2 (2018), p. 1-18 (12). Matthews, ‘The Caribbean reparation movement’, p. 82 and 92.

7) *Loi nr. 2001- 434* of 21 May 2001. D.L. Garraway, ‘Memory as reparation? The politics of remembering slavery in France from abolition to the *Loi Taubira* (2001)’ in: *International Journal of Francophone Studies* 11/3 (2008), p. 365-386. C. Forsdick, ‘Compensating for the past: debating reparations for slavery in contemporary France’ in: *Contemporary French and Francophone Studies* 19/4 (2015), p. 420-429. N. Frith, ‘Reparations for slavery in the French Republic: a national debate?’ in: *Bulletin of Francophone Postcolonial Studies* 8/2 (2017), p. 2-12.

8) See: <https://www.government.nl/latest/news/2022/12/19/government-apologises-for-the-netherlands-role-in-the-history-of-slavery> (last accessed 12 June 2024). Offering apologies and looking for measures for redress was suggested in a report presented on 1 July 2021 by the Adviescollege Dialooggroep Slavernijverleden (Advisory Board of the Dialogue Group on the History of Slavery), titled *Ketenen van het verleden* (Chains of the Past). See: Adviescollege Dialooggroep Slavernijverleden, *Ketenen van het verleden*, 26 July 2021, Appendix 993238 to *Kamerstukken II 2020/21*, 35 570-VII, no. 106, p. 40-42.

reiterated these apologies.⁹⁾ In a letter to the *Tweede Kamer* (Second Chamber, or House of Representatives), the government also promised to establish a fund of 200 million euros to enable policy intended to raise awareness and prevent a harmful impact of this past, among other things.¹⁰⁾ But there is no mention in the letter of compensation to individual descendants of enslaved persons.¹¹⁾

However, these measures will not end the discussion of compensating the descendants of enslaved persons.¹²⁾ Here, one strategy consists of civil litigation. Parallels are regularly drawn with other injustices in the past for which individuals and groups have been financially compensated. In 2013, the British government agreed in a settlement to pay Kenyans tortured by British forces during the Mau Mau uprising in the 1950s after the High Court ruled that four claimants had strong legal arguments.¹³⁾ In 2020, a Dutch court ordered the Netherlands to pay indemnification to the surviving relatives of 431 residents of the village of Rawagede (West Java, Indonesia) who were murdered by the Dutch army on 9 December 1947 during the War of Indonesian Independence.¹⁴⁾ Recently, Dutch

9) See 'Koning biedt excuses aan voor slavernijverleden', NOS 1 July 2023, <https://nos.nl/collectie/13940/artikel/2481034-koning-biedt-excuses-aan-voor-slavernijverleden-en-vraagt-om-vergiffenis> (last accessed 17 July 2024).

10) Letter from the Prime Minister's Office to the Speaker of the House of Representatives (*Tweede Kamer*) of 19 December 2022, *Kamerstukken II* 2022/23, 36 284, no. 1, p. 14.

11) Interestingly, the Advisory Board of the Dialogue Group on the History of Slavery suggested establishing a fund that would provide educational scholarships or other types of support to descendants of enslaved people, which would have entailed compensation aimed at specific individuals. However, the government ignored this suggestion. Adviescollege Dialooggroep Slavernijverleden, *Keten en van het verleden*, p. 42-43 and Appendix 4A, p. 37 (under 5).

12) See, for example, T. Palm, 'Excuses voor de slavernij, betekent dat ook compensatie voor nabestaanden?' in: *Trouw* 7 November 2022, <https://www.trouw.nl/binnenland/excuses-voor-de-slavernij-betekent-dat-ook-compensatie-voor-nabestaanden~b5b16636/> (Last accessed 13 December 2024).

13) 'Mau Mau torture victims to receive compensation', BBC News (6 June 2013), <https://www.bbc.com/news/uk-22790037> (last accessed on 10 June 2024). M. Mwanzia Koster, 'Recasting the Mau Mau Uprising: reparations, narration, and memory' in: M.M. Kithinji/M. Mwanzia Koster/J.P. Rotich (eds.), *Kenya after 50. Reconfiguring historical, political, and policy milestones* (Basingstoke: Palgrave MacMillan 2016), p. 49-63 (50-51).

14) District Court of The Hague, judgments of 25 March 2020, ECLI:NL:RBDHA: 2020:2584 and ECLI:NL:RBDHA: 2020:2558. In 2013, the Dutch government had already been forced by a court ruling to apologise for the behaviour of its military during the War of Indonesian Independence. See B. Luttikhuis, 'Juridisch afgedwongen excuses. Rawagedeh, Zuid-Sulawesi en de Nederlandse terughoudendheid' in: *BMGN - Low Countries Historical Review* 129/4 (2014), p. 92-105.

lawyer Liesbeth Zegveld, who was closely involved in the claim for the Rawagede massacre, investigated in collaboration with Gerard Spong and students from the University of Amsterdam whether a basis exists for a claim against the Dutch state for compensation because of its involvement in slavery, and if so, whether this claim should be collective or individual.¹⁵⁾

The chance that such a civil claim against the state will succeed in the Netherlands is generally considered low.¹⁶⁾ In recent years, civil litigation aimed at forcing a state to provide financial compensation to descendants of enslaved persons has failed in France and the United States.¹⁷⁾ However, this does not mean that the pursuit of compensation is hopeless. Redress can also be provided for political reasons without legal obligation. In the immediate aftermath of the Second World War, after difficult negotiations, the German government paid substantial sums to Holocaust survivors and the State of Israel without being convicted in legal proceedings.¹⁸⁾ In 1988, the United States adopted the Civil Liberties Act authorising payments to Japanese Americans interned during World War Two.¹⁹⁾ Advocates of compensation for slavery often point to these negotiated

15) M. Albers, 'Herstelbetalingen voor slavernij via de rechter afdwingen? Advocaten gaan het samen met studenten onderzoeken', in: *Volkskrant* 25 April 2023, <https://www.volkskrant.nl/nieuws-achtergrond/herstelbetalingen-voor-slavernij-via-de-rechter-afdwingen-advocaten-gaan-het-samen-met-studenten-onderzoeken~b5dd8782/> (last accessed on 17 July 2024).

16) Adviescollege Dialooggroep Slavernijverleden, *Ketenen van het verleden*, p. 40-42. M. Haimé, 'Het slavernijverleden: compensatie voor historische discriminatie als genoegdoening' in: *Nederlands Tijdschrift voor Mensenrechten* 43/3 (2018), p. 449-450, who does not favour such claims. M. Loth, 'How does tort law deal with historical injustice. On slavery reparations, post-colonial redress, and the legitimization tort law' in: *European Journal of Tort Law* 11/3 (2020), p. 181-207. More optimistic are N. Wentholt/N.L. Immler, 'How tort can address historical injustice. Exploring the momentum for the slavery justice movement in Dutch civil courts' in: *Netherlands Journal of Legal Philosophy* 52/2 (2023), p. 189-210.

17) On July 5, 2023, the *Cour de Cassation* (Supreme Court) of France rejected such a claim. ECLI:FR:CCASS:2023:C100466. See: <https://www.rfi.fr/en/france/20230705-france-s-top-court-denies-appeal-for-reparations-by-descendants-of-slaves> (last accessed on 17 July 2024). See for the United States: *Slavery and Justice. Report of the Brown University Steering Committee on Slavery and Justice* (2006), p. 76-77.

18) See R.E. Howard-Hassmann/A.P. Lombardo, 'Framing reparations claims: differences between the African and Jewish social movements for reparations' in: *African Studies Review* 50/1 (2007), p. 27-48 (33-35).

19) Public Law no: 100-383 (10 August 1988). L. Hatamiya, 'Righting a wrong: the passage of the Civil Liberties Act of 1988' in: *US-Japan Women's Journal. English Supplement* 2 (1992), p. 63-76.

settlements to support their cause.²⁰⁾ In 1999 and 2000, the Dutch government made money available to establish foundations for victims of the Second World War for whom too little had been done to restore rights, notably the Jews, Sinti, Roma, LGBTI+ persons, and those who suffered during the Japanese occupation of the Dutch East Indies.²¹⁾ As mentioned, this happened in the Netherlands, where the Dutch government established a fund of 200 million euros to enable policy aimed at raising awareness and preventing the harmful impact of this past.

Finally, the movement for financial compensation was initially directed at nation-states. However, appeals for financial compensation also targeted other semi-public and private institutions including universities and churches, as well as individual families that might have benefited from slavery.²²⁾ Recent examples show that individuals and groups have been financially compensated by non-state actors for other injustices. For instance, the *Nederlandse Spoorwegen* (Dutch Railways, or NS), a private company, decided to compensate those whom it transported to the Nazi death camps or the widows and widowers of such persons.²³⁾ The same is evident in the case of slavery, particularly when a direct link can be established with individual descendants, as in the example of

20) J. Kunnie, 'Justice never too late: the historical background to current reparations movements among Africans and African Americans' in: *The Journal of African American History* 103/1-2 (2018), p. 44-64 (50). H.M. Beckles, 'The reparation movement: greatest political tide of the twenty-first century' in: *Social and Economic Studies* 68/3-4 (2019), p. 11-30 (17-18). R. D.G. Kelley, "'A day of reckoning'. Dreams of reparations' in: Martin/Yaquinto (eds.), *Redress for historical injustices*, p. 203-221 (205). M.F. Berry, 'Taking the United States to court' in: *Journal of African American History* 103/1-2 (2018), p. 91-103 (101).

21) See: 'Vergoedingen na Tweede Wereldoorlog', <https://www.rijksoverheid.nl/onderwerpen/tweede-wereldoorlog/vergoedingen-na-tweede-wereldoorlog> (last accessed 17 July 2024).

22) N. Draper, *The price of emancipation. Slave-ownership, compensation and British society at the end of slavery* (Cambridge: Cambridge University Press 2010). Kelly, "'A day of reckoning'", p. 211. See for the involvement of Dutch in slavery: M. Stoutjesdijk, "'In openlijken strijd met den geest des Christendom'"? De kerk in het Nederlandse slavernijverleden' in: R.M. Allen/E. Captain/M. van Rossum/U. Vyent (eds.), *Staat & Slavernij. Het Nederlandse slavernijverleden en zijn doorwerkingen* (Amsterdam: Athenaeum -Polak & Van Gennep 2023), p. 381-389.

23) See 'NS betaalt Holocaust-slachtoffers: wat ging eraan vooraf?', NOS 25 June 2019, <https://nos.nl/nieuwsuur/artikel/2290638-ns-betaalt-holocaust-slachtoffers-wat-ging-eraan-vooraf> (last accessed 17 July 2024). See also M. Royall, 'NS keert ruim 43 miljoen euro uit aan overlevenden en nabestaanden Holocaust' in: *Het Parool* 3 June 2021, <https://www.parool.nl/nederland/ns-keert-ruim-43-miljoen-euro-uit-aan-overlevenden-en-nabestaanden-holocaust~bb7cc640/> (last accessed 17 July 2024). The NS was founded in 1938 and is state-owned.

Georgetown University in Washington D.C. in the United States. After it was confirmed that this university had sold 272 enslaved persons to owners of plantations in Louisiana in 1838, the institution pledged to make 400,000 dollars available for scholarships for their descendants.²⁴⁾ Admittedly, students pressured the university into this decision and it is still reluctant to implement it. Historical links were also uncovered between Brown University in Rhode Island, United States, and slavery.²⁵⁾ However, this was not sufficient reason to establish special scholarships, as Brown admits all students who are qualified and has already committed to providing financial aid to students in need.

Discussions about financial compensation related to the abolition of slavery are not new. In advance of the emancipation enacted by Great Britain (1838), France (1848), the Netherlands (1863), and the United States (1865) were extensive debates about the financial consequences thereof. The discussions focused on who should be compensated, the legal basis for this compensation, and who should be responsible for financing it. These discussions considered the positions of both the former slave ‘owners’ and those who had just been emancipated. In the United States, efforts to secure compensation for the victims of slavery continued until the early twentieth century, decades after the Emancipation Declaration. In this contribution, the movement to secure financial compensation for the victims of slavery is studied in depth with respect to the abovementioned four countries. A concluding paragraph explores what the findings mean for the current debate surrounding the financial compensation of descendants of enslaved persons.

Finally, the choice of these countries is worthy of an explanation. Since the contemporary debate on compensation focuses on slavery in the Atlantic, the focus here is on the process of abolition in the Caribbean and Americas. For reasons of comparison, three countries with overseas territories in the Western Hemisphere

24) C. Lane, ‘Opinion: Would reparations for slavery be constitutional?’, *Washington Post*, https://www.washingtonpost.com/opinions/would-reparations-for-slavery-be-constitutional/2019/08/12/76677182-ba10-11e9-b3b4-2bb69e8c4e39_story.html (Last accessed 13 December 2024). 12 April 2019. See for the plans for reparation of Georgetown University A.L. Araujo, *Reparations for slavery and the slave trade: a transnational and comparative history* (London: Bloomsbury Publishing 2017), p. 180-181. See also: ‘We May Be the First People to Receive Reparations for Slavery | NYT Opinion’, *The New York Times* 7 February 2020, https://www.youtube.com/watch?v=JBWP_DrsgbU (last accessed on 17 July 2024).

25) *Slavery and Justice*, p. 85-86.

are considered: Britain, France, and the Netherlands.²⁶⁾ Great Britain is studied because it was the first to abolish slavery in the nineteenth century. This pressured France and the Netherlands to consider emancipation, and served as an example they could follow.²⁷⁾ From a comparative perspective, France has the additional advantage that abolition occurred in a revolutionary environment: in February 1848, the monarchy was replaced by a republic, reinstating the ideals of *liberté, égalité, and fraternité*. In the paper, the discussions in Great Britain, France, and the Netherlands are compared with those in the United States, where the abolition of slavery took place in a different context as a result of the American Civil War from 1861 to 1865.²⁸⁾ The debate in the United States also diverges from that in the other countries because slavery was a singularly domestic issue. This was different in Britain, France, and the Netherlands, where the institution only existed in the overseas territories and not in the metropolis itself.

2. Owners' position at the time slavery was abolished

2.1 Europe

In Europe, the abolition of slavery in the overseas territories was paired with compensation for those who had formerly owned slaves.²⁹⁾ In Great Britain, a debate on abolition took place in the House of Commons on 15 May 1823. In this

26) Denmark abolished slavery in the Danish Antilles (since 1917: US-Virgin Islands) in 1848. See for the issue of apologies and reparation in Denmark: A. Nonbo Andersen, "'We Have Reconquered the Islands': Figurations in Public Memories of Slavery and Colonialism in Denmark 1948-2012' in: *International Journal of Politics, Culture, and Society* 26/1 (2013), p. 57-76 (71-74). Spain abolished slavery in Puerto Rico (1873) and Cuba (in 1868/1886). On abolition there, see: L.A. Figueroa, *Sugar, slavery, and freedom in nineteenth century Puerto Rico* (Chapel Hill, NC: The University of North Carolina Press 2005), p. 105-120, and R.J. Scott, 'Gradual Abolition and the Dynamics of Slave Emancipation in Cuba, 1868-86' in: *The Hispanic American Historical Review* 63/3 (August 1983), p. 449-477. For brevity, Denmark and Spain are not studied. Portugal is not studied because it no longer had any colonies in the Western Hemisphere after Brazil gained independence in 1822.

27) Slavery was formally abolished in the Dutch East Indies three years earlier on 1 January 1860. On slavery in the Dutch East Indies, see: R. Baay, *Daar werd wat gruwelijks verricht: slavernij in Nederlands-Indië* (Amsterdam: Athenaeum 2015).

28) Slavery was abolished throughout the United States with the ratification of the 13th Amendment to the US Constitution on 18 December 1865.

29) Great Britain paid 20 million pounds sterling, France 12 million francs, while the Netherlands provided more than 10 million guilders. Araujo, *Reparations for slavery*, p. 60 and 89. C.C. Goslinga, *The Dutch in the Caribbean and in Surinam 1791/5-1942* (Assen/Maastricht: Van Gorcum 1990), p. 310.

debate, Thomas Fowell Buxton (1786-1845) MP, son of a Quaker mother, proposed the gradual abolition slavery by granting freedom to the children of enslaved parents.³⁰⁾ According to Fowell Buxton, it was not necessary to compensate the ‘owners’ for their losses because slavery and the enslavement of children were crimes. He argued that enslaved people owned their own body, which was given to them by nature and held by the grant of God. In fact, he believed that slavery should be immediately abolished in its entirety, except that enslaved persons were treated so badly they were not fit for liberty. In his response, George Canning (1770-1827), Minister of Foreign Affairs, agreed with a policy of gradual abolition, but rejected the statement that slavery was illegal at the present.³¹⁾ He maintained that the ownership of enslaved persons was sanctioned by law and proposed a resolution to the House that any policy towards emancipation should take place with a ‘fair and equitable consideration of the interests of private property’.³²⁾ The House adopted this Resolution, thus establishing the principle of compensating slave ‘owners’. Of course, many slave ‘owners’ supported this view.³³⁾

In the following years, some British abolitionists opposed this approach, arguing that the ownership of persons was not legitimate and therefore compensating the ‘owners’ was not necessary.³⁴⁾ Elizabeth Heyrick (1769-1831), a Quaker active in the anti-slavery movement, wrote in a pamphlet in 1824 about the owner’s claim that the slaves were his property ‘always was, and always will be, ill-founded, because it is opposed to nature, to reason, and to religion’.³⁵⁾ During the debates in Parliament on the Abolition Bill in 1833, Edward Harbord (1781-1835), an abolitionist who cooperated closely with Thomas Fowell Buxton and William Wilberforce (1759-1833), also denied the existence of a right of property in men, because it is ‘contrary to reason’, ‘contrary to religion’, and

30) House of Commons Debates (hereinafter HC Deb) 15 May 1823 vol. 9 c. 268-272. Fowell Buxton was co-founder of the British and Foreign Anti-Slavery Society, established in 1839.

31) HC Deb 15 May 1823 vol. 9 c. 281-282.

32) HC Deb 15 May 1823 vol. 9 c. 286. N. Draper, “‘Possessing slaves’: ownership, compensation and metropolitan society in Britain at the time of emancipation, 1834-40’ in: *History Workshop Journal* 64 (2007), p. 74-102 (78). Araujo, *Reparations for slavery*, p. 59.

33) Draper, *The price of emancipation*, p. 79-82.

34) K. Manjapra, ‘The scandal of the British Slavery Abolition Act Loan’ in: *Social and Economic Studies* 68/3-4 (2019), p. 165-184 (168-169).

35) E. Heyrick, *Immediate, not gradual abolition; or an inquiry into the shortest, safest, and most effectual means of getting rid of West Indian slavery* (London 1824), p. 15.

‘contrary to the law of nature’.³⁶⁾ According to Harbord, who had become Lord Suffield in 1821, the opposition to the compensation of ‘owners’ was growing stronger.³⁷⁾ He illustrated this by presenting a petition from the inhabitants of Camberwell in the House of Lords during the preliminary discussions on the Slavery Abolition Act. In this petition, the idea of compensation was rejected on the ground that ‘the West Indian proprietor can have no claim to a right of property in the body and soul of any human being whatever’.³⁸⁾

However, the lobby of the ‘owners’ proved too strong and they were compensated in line with Canning’s Resolutions of 1823.³⁹⁾ Keep in mind that a considerable number of plantations in the overseas territories were in the hands of absentee owners who lived in England. Moreover, there were large groups of other people in the metropolis who had separate interests in the colonies, such as through investment companies.⁴⁰⁾ This intertwining of English society with slavery enabled the colonial lobby to significantly influence decision-making in the British Parliament.⁴¹⁾ The abolitionists also acquiesced to the *Slavery Abolition Act* of 28 August 1833, in which a sum of 20 million pounds sterling was made available for ‘owners’.⁴²⁾ Interestingly, the argument against ‘property in persons’ did not prevent the legislator from granting compensation, but resulted in a different framing of the issue. Both the full name of the act and provision mentioning the amount of money refer to ‘compensating the persons at present entitled to the

36) *The debates in Parliament— session 1833—on the resolutions and bill for the abolition of slavery in the British Colonies. With a copy of the Act of Parliament* (London 1834), p. 314 (session of 4 June 1833). Harbord was influenced by the writings of John Jeremie (1795-1841), who campaigned against slavery and racism after he learned about its realities as a colonial judge. R. Alibrandi, ‘Early nineteenth-century parliamentary debates for the abolition of slavery in the British Empire and the contribution of the colonial judge Sir John Jeremie in the period 1824-41’ in: *Parliaments, Estates and Representation* 35/1 (2015), p. 21-45 (29-31).

37) *The debates in Parliament*, p. 39 (session of 3 May 1833). Draper, *The price of emancipation*, p. 84-85.

38) *The debates in Parliament*, p. 39 (session of 3 May 1833). Draper, *The price of emancipation*, p. 84-85.

39) Manjapra, ‘The scandal’, p. 169 and 171. Draper, “‘Possessing slaves’”, p. 78. Draper, *The price of emancipation*, p. 99. S. Drescher, *Abolition. A history of slavery and antislavery* (Cambridge: Cambridge University Press 2009), p. 263-264.

40) Draper, *The price of emancipation*, p. 3-4.

41) Draper, *The price of emancipation*, p. 99.

42) Draper, *The price of emancipation*, p. 84-85 and 112-113.

services of the slaves', not to 'indemnifying the owners'.⁴³⁾ An important advantage of this wording was also that the sum awarded could be held within the limits of what was financially feasible.⁴⁴⁾

Although Great Britain was the first European country to abolish slavery in the nineteenth century, France had already emancipated its enslaved persons at the end of the eighteenth century, albeit temporarily.⁴⁵⁾ Since this was enacted during the radical phase of the French Revolution by the *Convention Nationale*, it is hardly surprising that the decision did not include any compensation of the 'owners'.⁴⁶⁾ However, before the decree of the *Convention* could be implemented properly, Napoleon reinstated slavery in 1802.⁴⁷⁾

After the fall of Napoleon, the subsequent restored conservative monarchy under Louis XVIII stifled abolitionism, which was associated with republicanism.⁴⁸⁾ With the arrival of the July Monarchy established in the wake of the Revolution of 1830, little had changed. Consequently, the main issues in the public debate concentrated more on granting civil rights to free persons of colour and ameliorating the fate of enslaved persons, rather than abolishing slavery in its entirety.⁴⁹⁾ The British Abolition Act of 1833 only strengthened the reluctance to talk about complete emancipation, for it provided the colonists with an example of generous compensation, showing that abolition could be very expensive.⁵⁰⁾ In April 1835, Francois Maugin (1785-1854), Member of Parliament for Beaune and a

43) Article 24 Act for the Abolition of Slavery throughout the British Colonies; for promoting the Industry of the manumitted Slaves; and for compensating the Persons hitherto entitled to the Services of such Slaves (28 August 1833, 3 and 4 Gulielmi IV, cap. 73).

44) Cf. Draper, *The price of emancipation*, p. 94.

45) Decree nr. 2262 of 4 February 1794 (= 16 Pluviôse an II). Published in: J.B. Duvergier (ed.), *Collection complète des lois, décrets, ordonnances, réglemens, et avis du Conseil d'État* vol. 7 (Paris 1825), p. 36. L.C. Jennings, *French anti-slavery: the movement for the abolition of slavery in France, 1802-1848* (Cambridge: Cambridge University Press 2000), p. 3.

46) L. Blériot, 'La loi d'indemnisation des colons du 30 avril 1849: aspects juridiques' in: *Revue historique des mascareignes (Contributions à l'histoire de l'esclavage)* 2 (2000), p. 147-161 (148-149).

47) Jennings, *French anti-slavery*, 4. Peter A.J. van den Berg, *Colonialism and codification. A legal History of the Caribbean and the Americas* (The Hague: Eleven 2022), p. 147.

48) Jennings, *French anti-slavery*, p. 6.

49) Jennings, *French anti-slavery*, p. 24, 30-31, 42 and 45.

50) A. Buffon, 'L'indemnisation des planteurs après l'abolition de l'esclavage' in: *Bulletin de la Société d'Histoire de la Guadeloupe* 67-68 (1986), p. 53-73 (54).

staunch defender of the colonists' interest, conceded that slavery could not be justified, but insisted that generous indemnity for the confiscation of property must be paid.⁵¹⁾ Furthermore, in June 1835, the president of the Council of the Colonies wrote to the Minister: 'Comme en Angleterre, il faudra indemniser les colons et les protéger au mieux'.⁵²⁾ The Commission De Broglie, established in May 1840 by the King and named after its head Victor de Broglie (1785-1870) also prioritised the compensation of 'owners'.⁵³⁾

The Commission De Broglie included several abolitionists and De Broglie himself was president of *Société française pour l'Abolition d'Esclavage* at the time of his appointment. However, many of the more ardent supporters of the abolition of slavery accepted the principle of compensation of the 'owners', at least to some extent, including the writer and future radical abolitionist Victor Schœlcher (1804-1893).⁵⁴⁾ The only known exception was Cyrille Bisette (1795-1858), a free person of colour from Martinique who had been convicted in the aftermath of a slave revolt and deported to Paris in 1824.⁵⁵⁾ In 1835, Bisette drafted legislation concerning the abolition of slavery in the French colonies, publishing it in the *Revue des colonies*, a journal he had founded in 1834.⁵⁶⁾ His proposal was radical for the time. In the preamble, he immediately declared slavery immoral and illegal: 'Considérant que l'esclavage est contraire à toutes les lois divines et humaines'.⁵⁷⁾ Aligned with this, his draft entailed immediate and complete emancipation.⁵⁸⁾ Uniquely, it did not provide any compensation for the 'owners'. Bisette argued in his explanation to the draft that 'Entre le maître et l'esclave il ne peut pas être question d'indemnité', because freedom could not be bought or sold.⁵⁹⁾ Therefore, abolition was not about property and expropriation. However,

51) Jennings, *French anti-slavery*, p. 79.

52) Letter of 18 June 1835. Quoted in Blériot, 'La loi d'indemnisation', p. 153.

53) Royal Ordonnance of 25 May 1840. The Commission presented its report in March 1843. Jennings, *French anti-slavery*, p. 148, 150 and 183.

54) See for example V. Schœlcher, *Des colonies françaises. Abolition immédiate de l'esclavage* (Paris 1842), p. 260. Jennings, *French anti-slavery*, p. 66-67.

55) Jennings, *French anti-slavery*, p. 29.

56) *Revue des colonies* 2/1 (July 1835), p. 7-8. The full title is *Revue des colonies. Recueil mensuel de la politique, de l'administration, de la justice, de l'instruction et des mœurs coloniales par une société d'hommes de couleur*.

57) *Revue des colonies* 2/1 (July 1835), p. 7.

58) See Article 1 Draft.

59) *Revue des colonies* 2/1 (July 1835), p. 8.

he understood that France could decide to pay money to the ‘owners’, but that would be voluntary, according to him a ‘pur acte de libéralité’.⁶⁰⁾

The arrival of the Second Republic, which replaced the July Monarchy in the wake of the Revolution of February 1848, was a turning point in the struggle for abolition. Without delay, the new Minister of the Navy of the Provisional Government, Dominique François Jean Arago (1786-1853), contacted Schœlcher. Schœlcher, who had become more radical in the early 1840s and now advocated complete and immediate abolition, convinced Arago to not wait until after the elections and installation of the new National Assembly, but to take immediate action against slavery right away.⁶¹⁾ This resulted in the Decree of 4 March 1848, which embraced the principle of abolition, stating that ‘nulle terre française ne peut plus porter d’esclaves’.⁶²⁾ In another Decree issued the same day, a commission charged with preparing the emancipation of the slaves was established, with Schœlcher as its president.⁶³⁾

The composition of the commission implied a victory for radical abolitionism, which favoured a policy of immediate and complete emancipation. The discussions also show that it did not consider the right of property an obstacle to this policy.⁶⁴⁾ Schœlcher argued that the February Revolution had already legitimised abolition by overthrowing the monarchical regime and establishing the republic. Another member explicitly rejected ‘la pensée de voir une propriété dans l’homme’.⁶⁵⁾ Consequently, the commission was also critical about compensating the ‘owners’, particularly about using the word ‘indemnité’ in this context.⁶⁶⁾ However, it did not deny the necessity of some form of compensation.⁶⁷⁾

The decree prepared by the commission reflected these relatively radical views.

60) *Revue des colonies* 2/1 (July 1835), p. 8.

61) A. Ulrich-Girollet, ‘L’abolition de l’esclavage de 1848’ in: *L’idée libre. Revue de la libre pensée* 320 (March 2018), p. 23-29 (24). The elections were scheduled for 23 April 1848.

62) The Decree is printed in *Le Moniteur Universel, Journal Officiel de la République française* (hereinafter *Le Moniteur Universel*) 65 (5 March 1949), p. 543.

63) The *Commission chargée de préparer l’acte d’émancipation des esclaves dans les colonies de la République*. See for a short description of its members: J. Adélaïde-Merlande, ‘La commission d’abolition de l’esclavage’ in: *Bulletin de la Société d’histoire de la Guadeloupe* 53/54 (1982), p. 3-34 (5-7). The Decree is printed in *Le Moniteur Universel* 65 (5 March 1949), p. 543.

64) Adélaïde-Merlande, ‘La commission d’abolition’, p. 16.

65) Quoted in Adélaïde-Merlande, ‘La commission d’abolition’, p. 16.

66) Adélaïde-Merlande, ‘La commission d’abolition’, p. 21.

67) Buffon, ‘L’indemnisation des planteurs’, p. 56-57.

The Provisional Government nevertheless accepted the draft and published it on 27 April 1848, proclaiming the immediate abolition of slavery.⁶⁸⁾ The Decree opened by condemning slavery as an ‘attentat contre la dignité humaine’. It was described as suppressing ‘le principe naturel du droit’ and violating the republican dogma of ‘liberté, égalité, fraternité’. Article 5 established the principle of compensation of the ‘colonists’, but left the final decisions such as the foundation and amount to the National Assembly.⁶⁹⁾ The provision used the word ‘indemnité’. However, the commission was quick to state in the report that accompanied the decree that they did not support this concept. It wrote that it opposed the idea of human beings as property, and therefore preferred to talk about ‘dédommagement’:

‘Elle [the commission] ne reconnaît point le caractère de la propriété à la possession de l’homme par l’homme; elle voit dans l’esclavage, non un institution de droit, mais un désordre social’.⁷⁰⁾

The commission realised that the French state had participated in the crime of slavery and therefore, the National Assembly could decide to provide compensation. However, it strongly advised the Assembly that if it decided to do so, it must ensure the colony as a whole benefitted from the money, not just the ‘owners’.

Initially, the government heeded this advice. In its first legislative proposal concerning compensation submitted on 23 August 1848, it did not indemnify the colonists based on the market value of their formerly enslaved persons, because this would be too expensive and would imply that the government was exercising a right of expropriation.⁷¹⁾ Instead, it proposed to provide compensation basis on the amount of money needed to pay the freed persons for their work. In this way, all inhabitants of the colony would benefit. However, the draft act it introduced in 1849 only provided compensation for the individual colonists, adopting the terminology of ‘indemnity’ and ‘expropriation’.⁷²⁾

68) The Decree is printed in *Le Moniteur Universel* 123 (2 May 1848), p. 921.

69) Article 5 of the Decree of 27 April 1848 read: ‘L’assemblée nationale réglera la quotité de l’indemnité qui devra être accordée aux colons’. Blériot, ‘La loi d’indemnisation’, p. 148.

70) The report is printed in *Le Moniteur Universel* 124 (3 May 1848), p. 927-928 (quote on 927). Blériot, ‘La loi d’indemnisation’, p. 153-154.

71) The draft Decree and explanatory memorandum are printed in *Le Moniteur Universel* 237 (24 August 1848), p. 2129-2030. Blériot, ‘La loi d’indemnisation’, p. 155. Buffon, ‘L’indemnisation des planteurs’, p. 66-67.

72) See Article 1 of the proposal: ‘il est alloué une indemnité aux colons dépossédés’. *Le Moniteur Universel* 114 (24 April 1849), p. 1303.

There was some opposition to this change of policy, notably from Emiland Anne Marie Menand (1786-1871), a leftist delegate for Saône-et-Loire.⁷³⁾ Menand argued that ‘l’État ne doit aucune espèce d’indemnité pour le retour à un droit sacré qui avait été si longtemps méconnu et méprisé’.⁷⁴⁾ He objected to the fact that only the individual colonists were compensated for the emancipation because it entailed nothing but the end of ‘une grande et affreuse injustice’. He suggested an amendment, which replaced this compensation by a subsidy for the colonies to be used partly for encouraging trade and productivity and partly for educating the freed persons and improving their living conditions. The amendment was not supported by the majority of the Assembly and on 30 April 1849, the government’s proposal was adopted.⁷⁵⁾ Note that despite the language of the act, the compensation provided was considerably lower than the market value of the formerly enslaved persons and was therefore not based on the right of expropriation.⁷⁶⁾

In the Netherlands, the abolitionist movement developed later than in Great Britain and France. The *Maatschappij tot Bevordering van de Afschaffing der Slavernij* (Society for the Promotion of the Abolition of Slavery) was only founded in 1842 and did not develop any activities until 1853 because the government discouraged the initiative.⁷⁷⁾ The government feared that its activities

73) Blériot, ‘La loi d’indemnisation’, p. 154-155. Michel Goudchaux (1797-1862) and Schœlcher also objected to the new proposal, because it did not ensure the colony as a whole would benefit from the compensation. *Le Moniteur Universel* 114 (24 April 1849), p. 1304-1305 and 1307-1308.

74) *Le Moniteur Universel* 114 (24 April 1849), p. 1303.

75) *Loi no. 285 du 30 avril 1849 relative à l’indemnité accordée aux colons par suite de l’abolition de l’esclavage*. Published in: J.B. Duvergier (ed.), *Collection complète des lois, décrets, ordonnances, réglemens, et avis du Conseil d’État* vol. 49 (Paris 1849), p. 144-145. *Le Moniteur Universel* 114 (24 April 1849), p. 1303-1309, and 121 (30 April 1849), p. 1621.

76) Blériot, ‘La loi d’indemnisation’, p. 160.

77) M.J. Janse, *De afschaffers. Publieke opinie, organisatie en politiek in Nederland 1840-1880* (Amsterdam: Wereldbibliotheek 2007), p. 67-70 and 91-92. J.M. van Winter, ‘De openbare mening in Nederland over de afschaffing der slavernij’ in: *De West-Indische Gids* 34 (1953), p. 61-90 (66-67). R. Reinsma, *Een merkwaardige episode uit de geschiedenis van de slavenemancipatie* (The Hague: Van Goor Zonen 1963), p. 13 and 29-32.

could lead to slave revolts.⁷⁸⁾ As a result, abolition did not occur until 1863. Of course, the examples of Britain and France were closely followed and the discussions on compensation consequently resembled those in these two countries.

As in Great Britain and France, there was some opposition to the idea of compensating the former 'owners'. Fundamental criticism against the idea of human beings as property sometimes resulted in the rejection of the idea that 'owners' had to be indemnified.⁷⁹⁾ The proposal for emancipation of George Severijn de Veer (1806-1891), a civil servant who served in Curaçao and in the Ministry of Colonies in The Hague, exemplifies this line of thinking. In his proposal, initially published anonymously in 1848, De Veer suggested that the 'owners' should repay the sums the government would make available to them in the course of the abolition process.⁸⁰⁾ He was aware that people might argue that his proposal violated the property rights of the 'owners'. He replied that slavery was an unnatural state of affairs, contrary to the most sacred rights of man and to the principles of Christianity.⁸¹⁾ According to De Veer, the 'owners' had attached importance to a right based on nothing but a gross error of judgment for far too long.

The poor financial situation in the Netherlands, partly resulting from the Belgian secession (1830-1840), can also help explain the reluctance to compensate the 'owners' and the pursuit of emancipation that would cost the government as little money as possible.⁸²⁾ For example, in 1848 the Council of State (*Raad van State*) suggested immediate emancipation without compensation.⁸³⁾ In December

78) In 1795, the enslaved Tula led an uprising on the island of Curaçao, the greatest slave revolt of the Dutch Antilles. See A.F. Paula (ed.), 1795. *De slavenopstand op Curaçao* (Curaçao 1974).

79) On criticism in the Netherlands on the institution of slavery, see also J.M. Milo, 'Jan Ackersdijck tegen slavernij. Een missie met methode tussen recht en economie' in: *Pro memorie. Bijdragen tot de rechtsgeschiedenis der Nederlanden* 25/2 (2023), p. 203-225.

80) G.S. de Veer, *Opmerkingen omtrent den Afrikaanschen slavenhandel en de emancipatie in de Britsche koloniën, met aanbeveling van middelen om Afrika te beschaven, den bloei der West-Indiën te herstellen. En de slaven in de kolonie Suriname te emanciperen* (The Hague: Gebroeders Belinfante 1848), p. 89-90. J.P. Siwipersad, *De Nederlandse regering en de afschaffing van de Surinaamse slavernij (1833-1863)* (Groningen/Castricum: Bouma's Boekhuis 1979), p. 182.

81) De Veer stated that: 'de slavernij is een tegennatuurlijke toestand, aandruischende tegen de heiligste regten van de mensch, en tegen de beginselen van het Christendom'. De Veer, *Opmerkingen omtrent den Afrikaanschen slavenhandel*, p. 90.

82) Siwipersad, *De Nederlandse regering*, p. 16, 69-70 and 169.

83) Siwipersad, *De Nederlandse regering*, p. 162.

1851, Charles Ferdinand Pahud (1803-1873), the Minister of Colonies, introduced a more conventional plan. He proposed that children of persons in slavery should be declared free at the time of birth without compensation for the ‘owners’ of the parents.⁸⁴⁾ Reinier Frederik van Raders (1794-1868), the governor of Surinam from 1845 to 1851, presented a similar proposal in 1855 with the understanding that the free children would have to work on their mother’s plantation until they were 23 years old.⁸⁵⁾

However, as in Britain and France, compensation for the ‘owners’ was considered inevitable. Remember that many investors in the Netherlands had major financial interests in the overseas plantations.⁸⁶⁾ This resulted in a powerful lobby, especially from stakeholders in Amsterdam.⁸⁷⁾ The appeal to property rights constituted a powerful argument.⁸⁸⁾ In 1839, Julius Constantijn Rijk (1787-1854), the governor-general of the overseas territories in the West Indies, wrote a memorandum on the desirability of general emancipation, mentioning the ‘inalienability’ of the property rights acquired by the slave ‘owners’ of enslaved

84) Siwpersad, *De Nederlandse regering*, p. 209. M. Kuitenbrouwer, ‘De Nederlandse afschaffing van de slavernij in vergelijkend perspectief’ in: *BMGN - Low Countries Historical Review* 93/1 (1978), p. 69-100 (77-78). In some states of the United States, there was also a push for gradual emancipation by offering the children of women in slavery the prospect of freedom, for example in Pennsylvania (1780), Rhode Island (1784), Connecticut (1784), and New York (1799). Araujo, *Reparations for slavery*, p. 48-49 and 51. S.L. Engerman, ‘Emancipations in comparative perspective. A long and wide view’ in: G. Oostindie (ed.), *Fifty years later. Antislavery, capitalism and modernity in the Dutch orbit* (Leiden: KITLV Press 1995), p. 223-241 (228).

85) Van Winter, ‘De openbare mening in Nederland’, p. 81.

86) Siwpersad, *De Nederlandse regering*, p. 170-188 and 214-215. Van Winter, ‘De openbare mening in Nederland’, p. 83.

87) P. Brandon/K. Lurvink, “‘With the power of language and the force of reason’: an Amsterdam banker’s fight for slave owners’ compensation’ in: P. Brandon/S. Go/W. Verstegen (eds.), *Navigating history: economy, society, knowledge, and nature. Essays in honour of prof. dr. C.A. Davids* (Leiden/Boston: Brill 2018), p. 228-248. L. Lauret, ‘No emancipation without compensation. Slave owners’ petitions and the end of slavery in the Netherlands, c. 1833-1873’ in: *BMGN - Low Countries Historical Review* 139/3 (2024), p. 94-117.

88) In the Dutch colonies, the concept of slaves as things subject to property was derived from Roman law. Peter A.J. van den Berg, ‘Slaves: persons or property? The Roman law on slavery and its reception in Western Europe and its overseas territories’ in: *Osaka University Law Review* 63 (2016), p. 171-188 (181-187).

persons.⁸⁹⁾ The report of Jean Chrétien Baud (1789-1859), Minister of the Colonies, of 20 July 1844, also noted that the abolition of slavery without compensating the ‘owners’ would be considered unlawful.⁹⁰⁾ Finally, the State Commission charged with proposing measures involving slaves in the Dutch colonies also took compensation as its starting point.⁹¹⁾ In its first report issued on 22 November 1855, the commission argued that slaves had been declared in legislation to be ‘lawful property’ (*wettig eigendom*) and that the legislature could not deprive or render ineffective the rights thus created without compensation.⁹²⁾

Moreover, the government was convinced that agriculture in Surinam, and thus the entire economy of the colony, could only be preserved if compensation was provided, a view also popular in France and Britain. Even those who criticised slavery and urged speedy universal emancipation on the grounds of principle accepted the need for compensation. For example, the articles of the memorandum of the Society for the Promotion of the Abolition of Slavery of 1842 stated as its fourth principle that when slavery was abolished, the issue of compensation would be kept in mind.⁹³⁾ This was even more true for the abolitionists with liberal convictions who regarded property a natural right. In their journal, published by the *Uitgeversvereniging*, which they had established for this purpose, emancipation and expropriation without indemnity were flatly rejected with reference to the Dutch Constitution.⁹⁴⁾ They also explicitly mentioned the example of Great Britain.

Unsurprisingly, Article 2 of the Emancipation Act of 1862 established the

89) Siwpersad, *De Nederlandse regering*, p. 17: ‘het onvervreembare van eigendomsregten door de slavenbezitters verkregen’.

90) Siwpersad, *De Nederlandse regering*, p. 132.

91) *Staatscommissie tot het voorstellen van maatregelen ten aanzien van de slaven in de Nederlandse koloniën*. This Commission was established in November 1853. Royal Decree of 22 November 1853, no. 66.

92) *Eerste rapport der Staatscommissie tot het voorstellen van maatregelen ten aanzien van de slaven in de Nederlandsche koloniën* (The Hague: Gebroeders Van Kleef 1855), p. 92-93.

93) Van Winter, ‘De openbare mening in Nederland’, p. 72. Reinsma, *Een merkwaardige episode*, p. 33.

94) See *Bijdragen tot de kennis der Nederlandsche en vreemde koloniën, bijzonder betrekkelijk de vrijlating der slaven* 1844, nr. 3, p. 200-201 and 1845, nr. 1, p. 57 and 60-61. Janse, *De afschaffers*, p. 74-75 and 87-88. Article 162 of the Dutch Constitution of 1840 protected property and required adequate compensation in case of expropriation.

compensation of former slave ‘owners’ as a legal principle.⁹⁵⁾ However, interesting is that this provision uses the word ‘*tegemoetkoming*’ (compensation), not ‘*schadeloosstelling*’ (indemnification).⁹⁶⁾ This resulted from discussions in the committees of the *Tweede Kamer* (Second Chamber, or House of Representatives) about the nature of the rights of the ‘owners’.⁹⁷⁾ The Preliminary Report of these committees, adopted on 31 January 1858, showed that several delegates harboured the same fundamental objections against the institution of slavery already raised earlier and elsewhere.⁹⁸⁾ They argued that slavery was such an unnatural practice, so contrary to the original state of man, that its abolition could never give rise to a right of indemnity for a former slave ‘owner’.⁹⁹⁾ They denied that there could be a normal right of ownership with regard to slaves because slavery conflicted with the right of nature. Therefore, terms such as ‘expropriation’ and ‘indemnification’ were viewed as inappropriate. An additional advantage of this principled position is that the language of ‘compensation’ would justify a lower amount of money that could be awarded, whereas ‘indemnification’ would require a return of the actual monetary value of the formerly enslaved persons.

2.2 The United States

Like in Europe, abolitionists in the United States criticised the idea of compensating the former ‘owners’ of slaves. Often religiously inspired, they rejected the ownership of persons as a matter of principle. Interestingly, the

95) *Wetten houdende opheffing der slavernij* of 8 August 1862, *Staatsblad* 1862, 164 (Surinam) and 165 (Curaçao). On 3 October 1862, the abolition in Surinam was proclaimed in two languages, Dutch and Sranantongo (the English based creole language spoken in Surinam). In the latter proclamation (in Sranantongo), Article 2 regarding the compensation of ‘owners’ was left out, apparently to avoid any commotion. D.J. Tang, *Met Hollandse bedaardheid. Hoe Nederland tussen 1800 en 1873 slavernij in de koloniën afschafte* (Zutphen: Walburg Pers 2021), p. 144.

96) Article 2 read: ‘Aan de eigenaren der slaven wordt, ter zake van de opheffing der slavernij, tegemoetkoming toegekend’. C.A. van Sypesteyn, ‘Afschaffing der slavernij in de Nederlandsche West-Indische koloniën, uit officiële bronnen samengesteld’ in: *De Economist* 15 (1866), p. 1-85 and 289-307 (10). Kuitenbrouwer, ‘De Nederlandse afschaffing van de slavernij’, p. 87.

97) Van Winter, ‘De openbare mening in Nederland’, p. 83.

98) *Handelingen Tweede Kamer 1857/58, Bijlagen*, p. 551-571 (*Kamerstuk XIII.6*).

99) *Handelingen Tweede Kamer 1857/58, Bijlagen*, p. 556: they argued that ‘*slavernij (...) zulk een onnatuurlijk feit is, zoo zeer met den oorspronkelijken staat der menschen strijdt, dat uit de opheffing van eenen zo wederregtelijken toestand nimmer voor eenig dusgenoemd slaveneigenaar regt op schadeloosstelling kan ontstaan*’.

abolitionist movement was supported by freedmen of African descent, a group that was naturally much larger in the United States than in the European parts of Great Britain, France, and the Netherlands. As a result, the movement took on a more radical appearance in the United States. A well-known leader of this group is the influential Frederick Douglass (1817 or 1818-1895).¹⁰⁰⁾ Douglass escaped slavery in Baltimore in 1838, went to New York, and devoted the rest of his life to emancipating his former peers.

The more radical nature of the abolitionist movement was reflected in unique discussions about the legitimacy of redeeming enslaved individuals. Some abolitionists such as Douglass and William Lloyd Garrison (1805-1879) believed that no price should be put on the freedom of persons.¹⁰¹⁾ They argued that slavery was a sin and that compensating ‘owners’ was tantamount to complicity therein. Incidentally, this did not prevent them from buying off the ‘owners’ in individual cases. For example, money was paid for Douglass himself in the late 1840s to ensure he would not be arrested as a fugitive and forced back into slavery.

Despite the criticism from radical abolitionists, the compensation of ‘owners’ was often included in plans for emancipation. During the Civil War (1861-1865), the *District of Columbia Emancipation Act* of 1862 ended slavery, freeing ‘all persons held to service or labor within the District of Columbia by reason of African descent’.¹⁰²⁾ The Act, which was signed by President Abraham Lincoln (1809-1865), provided for the remuneration of those ‘holding a claim to such service or labor’. Similar proposals entailing compensated emancipation of persons held in slavery in the Southern States were also introduced in the hope that abolition could be achieved with money rather than blood. The Southern States, however, were not in favour of the ‘British model’, for they believed it would mean the end of their way of life.¹⁰³⁾

100) J. Stauffer, ‘Frederick Douglass and the politics of slave redemptions’ in: K.A. Appiah/M. Bunzl (eds.), *Buying freedom: the ethics and economics of slave redemption* (Princeton, NJ/Oxford: Princeton University Press 2007), p. 213-222.

101) M.M.R. Kellow, ‘Conflicting imperatives: black and white American abolitionists debate slave redemption’ in: Appiah/ Bunzl (eds.), *Buying freedom*, p. 200-212 (200). Stauffer, ‘Frederick Douglass’, p. 213.

102) Act of 16 April 1862, 37th Congress, Session II, Chapter 54. M. Mitchell, “‘I held George Washington’s horse’: compensated emancipation in the District of Columbia”, in: *Records of the Columbia Historical Society* (63/65) 1963/1965, p. 221-229 (221). Araujo, *Reparations for slavery*, p. 63.

103) B.L. Fladeland, ‘Compensated emancipation: a rejected alternative’ in: *The Journal of Southern History* 42/2 (1976), p. 169-186 (185-186).

The outcome of the Civil War changed everything. The abolition of slavery was a major issue in this war, and when it ended in a victory of the Northern States in 1865, slave ‘owners’ in the South were expropriated without compensation.¹⁰⁴⁾ It was a punitive measure imposed on the side that had lost the war as part of *Reconstruction*, which aimed to reorganise the Southern States so they could be readmitted to the Union.

3. Liberated persons’ position when slavery was abolished

3.1 Europe

The lobby for the freed persons in Great Britain, France, and the Netherlands was weaker than that of the ‘owners’ because these persons were neither directly nor indirectly represented in parliament. They were represented primarily by the abolitionists such as those united in the various anti-slavery societies. Their weak position is reflected in the fact that several plans for emancipation, which almost always included compensation for ‘owners’, also proposed that the former slaves pay for this compensation themselves.

As inappropriate as such proposals may sound now, remember that since Roman times, people in slavery have sometimes been able to buy their freedom with their *peculium*, or the money they were allowed to earn in their spare time and that to some extent, ‘belonged’ to them.¹⁰⁵⁾ Of course, other people could also pay for their freedom. In the nineteenth century, the practice of buying the freedom of individuals held in slavery came under increasing scrutiny, especially in the United States. Some argued that slavery as an institution was illegal and contrary to natural law, and that reimbursing the ‘owners’ for their ‘property’ amounted to complicity in the crime. Nevertheless, the practice continued on a large scale, not only in the United States, but also in the Netherlands. The Society for the Promotion of the Abolition of Slavery spent part of the membership fee on the individual redemption of slaves and applied the principle that the freedmen should ideally pay their ransoms themselves.¹⁰⁶⁾

In Great Britain, the plans for emancipation that Minister of War and Colonies Edward Stanley (1799-1869) presented to Parliament on 14 May 1833 highlighted

104) Araujo, *Reparations for slavery*, p. 62 and 64.

105) P.A. Hunt, *Ancient Greek and Roman slavery* (Hoboken, NJ: Wiley-Blackwell 2018), p. 121-122.

106) Van Winter, ‘De openbare mening in Nederland’, p. 73.

that the newly freed persons must contribute to the costs of their own liberation.¹⁰⁷⁾ In these plans, sometimes referred to as ‘Stanley’s Resolutions’, he argued that the government should compensate the ‘owners’ for the emancipation by granting them a loan of 15 million pounds. The recently freed persons would then be subjected to an ‘apprenticeship’ for a duration of twelve years after their emancipation. In this period, they would be forced to work for their former ‘owners’ for three quarters of their working hours exclusively for food and lodging, or wages at an amount fixed by the government—whatever the ‘employer’ preferred. After twelve years, this would amount to three quarters of the loan provided by the government. In the remaining quarter of their working hours, the freed persons could work for money, either for their former master or a separate employer. They would have to save this money and use it to pay their former ‘owners’ for the last quarter of the loan. Stanley mentioned that Parliament could choose another solution to the cost of emancipation, for example by converting the loan into a gift. However, he emphasised that the repayment of the loan ‘must be borne either by the produce of the negro labour, or by the revenues of this country; for it cannot, in justice or fairness be borne by the planters’.¹⁰⁸⁾

Fowell Buxton strongly objected to the latter remark, stating that he would oppose ‘the payment of a single farthing by the negro’.¹⁰⁹⁾ Ultimately, the parties reached a compromise that shifted a substantial part of the costs of emancipation to the British taxpayer.¹¹⁰⁾ As mentioned, the Act on Abolition of 1833 granted 20 million pounds to the ‘owners’ in compensation that they did not have to repay. Furthermore, the abolitionists had succeeded in preventing the freed persons from carrying the full burden of their liberation. However, the final Abolition Act still entailed an ‘apprentice system’, albeit for a reduced period of four to six years, in which the freed slaves were obliged to work after their emancipation for limited compensation, often for their former ‘owners’.¹¹¹⁾ In this way, the former slaves

107) *The debates in Parliament*, p. 75-79 (session of 14 May 1833). Draper, *The price of emancipation*, p. 99. Araujo, *Reparations for slavery*, p. 46.

108) *The debates in Parliament*, p. 78-79 (session of 14 May 1833).

109) *The debates in Parliament*, p. 103 (session of 14 May 1833).

110) The British Abolition debt was ultimately repaid as late as 2015. Manjapra, ‘The scandal’, p. 177-178.

111) Araujo, *Reparations for slavery*, p. 46 and 60. Draper, *The price of emancipation*, p. 99-100. The British apprentice system ended in 1838. Van den Berg, *Colonialism and codification*, p. 309.

compensated the ‘owners’ more than the state did.¹¹²⁾

In France, the Commission De Broglie considered two options for emancipation in its report of March 1843, both entailing a contribution of freed persons to the compensation of the ‘owners’.¹¹³⁾ In the first option, slavery would effectively continue after the proclamation of the emancipation for ten years, followed by a period of five years of compulsory ‘engagement’, a kind of indentured servitude. The second option involved gradual emancipation by freeing newborn children and providing a legal basis for slaves to have a peculium to use to buy their own freedom (*rachat*, or repurchase). In 1848, neither of these options were implemented. The revolutionary Provisional Government abolished slavery immediately and completely without any form of apprenticeship.

In the Netherlands, legislators also proposed that recently freed slaves should finance their own compensation to their former ‘owners’. In 1847, a civil servant suggested forcing freed persons to work a specified job for a set time after their emancipation, such as on state plantations that would be created after the expropriation of the owners.¹¹⁴⁾ They also considered forcing them to work for their former masters with their wages used to pay the costs of emancipation.¹¹⁵⁾ In its first report issued in 1855, the State Commission of 1853 adopted the principle of ‘restitution, as far as practicable, by the emancipated to the State of the costs of their emancipation and social integration’.¹¹⁶⁾ It envisioned expropriating all plantations in exchange for compensation and handing them over to freedmen in indivisible ownership.¹¹⁷⁾ Subsequently, the freedmen would have to pay off the costs of compensation with the proceeds generated from their work on these plantations.

The bill Pieter Mijer (1812-1881), Minister of Colonies, submitted to the House of Representatives on 23 September 1857 included a clause mandating that

112) Manjapra, ‘The scandal’, p. 172.

113) Jennings, *French anti-slavery*, p. 180-181 and 183.

114) The plan was produced by W.H. Lans. Kuitenbrouwer, ‘De Nederlandse afschaffing van de slavernij’, p. 75. Van Winter, ‘De openbare mening in Nederland’, p. 68. See also Siwpersad, *De Nederlandse regering*, p. 132-133 and 136.

115) In a plan produced by Van Raders in May 1848. Siwpersad, *De Nederlandse regering*, p. 143.

116) *Eerste rapport der Staatscommissie*, p. 93: ‘teruggave, zoo veel doenlijk, door de geëmancipeerden aan den staat van de kosten van hunne vrijmaking en maatschappelijke vestiging’. Siwpersad, *De Nederlandse regering*, p. 228.

117) Siwpersad, *De Nederlandse regering*, p. 229. Kuitenbrouwer, ‘De Nederlandse afschaffing van de slavernij’, p. 80.

the freed persons contribute to the costs of their own emancipation. It proposed a system of state supervision comparable to the British 'apprentice' system.¹¹⁸⁾ The emancipated persons would only be released from this supervision when the amount of money granted by the state to the 'owner' was repaid. However, most members of the House of Representatives strongly disapproved of the latter provision. They argued that 'if slavery is an illegal condition, then it is absurd to demand from the slave repayment of the costs to free him from this condition'.¹¹⁹⁾ Rather, they believed the recently freed slaves were entitled to their freedom based on the principles of justice and humanity.

The final Emancipation Act, which became effective on 1 July 1863, introduced state supervision of the liberated persons in Surinam, which would be exercised for ten years.¹²⁰⁾ The criticised clause concerning the repayment of the 'owners' was omitted, but during this period, the freedmen were forced to conclude labour contracts with the plantation owners.¹²¹⁾ In this way, they still contributed to the compensation of the owners, just like their British peers, because their freedom to negotiate the terms of the contracts was limited.

The fact that several proposals suggested making the liberated persons pay for their own emancipation indicates little chance they would be compensated themselves in the immediate aftermath of abolition. In Britain, even the abolitionist Thomas Fowell Buxton MP, who considered slavery a crime, did not advocate reparations. In his speech on 15 May 1823, he emphasised the moderation of his proposal, stating: 'To a nation thus steeped in this species of iniquity, can less be said than this: "We do not ask that you should undergo deep humiliation; we do not ask that you shall make reparation to those you have wronged; we do not even say, cease to enjoy those acts of criminality which you have begun; but, take the full benefit and fruition of past and present injustice (...); only stop there; and, when every slave now living shall have found repose in the grave, then let it be said, that the country is satiated with slavery, and has done

118) *Handelingen Tweede Kamer 1857/58, Bijlagen*, p. 558.

119) *Handelingen Tweede Kamer 1857/58, Bijlagen*, p. 558 (Voorlopig Verslag): 'Is de slavernij een wederregtelijk toestand, dan is het ook ongerijmd van den slaaf terugbetaling te willen vorderen van hetgeen het kosten moet om hem uit dien toestand te bevrijden'. Siwpersad, *De Nederlandse regering*, p. 231.

120) Articles 3, 18-20 and 24 *Wet houdende opheffing der slavernij* (Surinam).

121) Engerman, 'Emancipations in comparative perspective', p. 227-228.

with it for ever.”’.¹²²⁾

However, some abolitionists in Britain argued that redress of the victims was necessary.¹²³⁾ For example, Elizabeth Heyrick, who disputed the former ‘owners’ claims for compensation, remarked: ‘Let compensation be made in the first instance, where it is most due; let compensation be first made to the slave, for his long years of uncompensated labour, degradation and suffering’.¹²⁴⁾ During the debates on the Abolition Bill in 1833, Lord Suffield also briefly mentioned the compensation of the victims, stating ‘if anybody in the colonies be entitled to compensation, it is the slave’.¹²⁵⁾ Unsurprisingly, the issue was not central in the public debate, and as a result, the freedmen were not paid for their years of work in slavery.¹²⁶⁾

In France, the idea of compensating the emancipated persons also surfaced occasionally. As mentioned, in 1835, the radical abolitionist Bissette argued against an indemnity for the ‘owners’, stating that ‘Entre le maître et l’esclave il ne peut pas être question d’indemnité’. This was immediately followed by the remark, ‘Si l’on voulait absolument en établir une [question d’indemnité], ce serait le maître qui la devrait à l’esclave, pour réparation de la violence physique et morale qu’il a exercée contre lui’.¹²⁷⁾ However, Bissette used this appeal to compensate the freed persons only to support his argument against paying money to the ‘owners’. Therefore, it should be regarded as mainly rhetorical; he knew that nobody would take such a claim seriously.

The same is likely true of a remark by Schœlcher in his book *Des colonies françaises* published in 1842. Therein, Schœlcher argued against the proposal that enslaved persons should buy their freedom using their peculium, as suggested by the Commission De Broglie, among others. According to Schœlcher, they could counter such a demand by claiming indemnity themselves: ‘Et moi au nom de l’espèce humaine dont la majesté a été odieusement, lâchement violée dans ma personne, je demande 30,000 fr. d’indemnité pour les trente ans que j’ai passés en servitude!’.¹²⁸⁾

Due to the revolutionary nature of the new republican regime in 1848, the idea

122) HC Deb 15 May 1823, c. 270.

123) Manjapra, ‘The scandal’, p. 169.

124) Heyrick, *Immediate, not gradual abolition*, p. 16.

125) *The debates in Parliament*, p. 316 (session of 4 June 1833).

126) Araujo, *Reparations for slavery*, p. 60-61.

127) *Revue des colonies* 2/1 (July 1835), p. 8.

128) Schœlcher, *Des colonies françaises*, p. 342. Buffon, ‘L’indemnisation des planteurs’, p. 72.

of compensating the emancipated persons became more serious. As mentioned, the commission of March 1848, headed by Schœlcher, was critical of the concept of property of a human being and the idea of indemnifying the 'owners'. It suggested in its report of April 1848 to the National Assembly that if France was to offer compensation for having tolerated slavery in the past, it should ensure that the colony as whole benefitted from it. The commission emphasised that this included the freed persons: 'Elle (France) la [compensation] doit bien sans doute à ceux qui en ont souffert, autant qu' à ceux qui en ont profité'.¹²⁹⁾

Again, the first legislative proposal of the government concerning compensation, submitted in August 1848, was based on the same principle.¹³⁰⁾ The explanatory memorandum to the draft Decree clearly stated that 'Les deux intérêts coloniaux qui réclament l'indemnité, celui des propriétaires et celui des noirs émancipés, sont également pressants'. The government argued that considering these two interests would serve the same purpose, namely safeguarding both work and production in the colonies. Indeed, to ensure that freed persons would benefit from the indemnity, Articles 6 and 7 of the draft Decree stipulated that two-thirds of the 90 million francs the government had reserved for this purpose were to be exclusively used to pay their salaries.¹³¹⁾

There was some support in society for this policy. In September 1848, a retired police officer wrote a letter to Louis-Eugène Cavaignac (1802-1857), the then-Chief of the Executive Power, the equivalent of a president, emphasising that the victims of slavery also deserved compensation. He believed 'qu'une partie de cette somme [of the indemnity] serait due aux nègres comme un faible dédommagement des traits horribles dont ils étaient journellement l'objet de la part des colons'.¹³²⁾

Again, the government changed its stance in January 1849. It removed Articles 6 and 7 from its proposal, to focus solely on compensating the 'owners'.¹³³⁾ When the new proposal was discussed in the National Assembly in April 1849, some delegates objected to these changes. Michel Goudchaux (1797-1862), who did not

129) *Le Moniteur Universel* 124 (3 May 1848), p. 927. It seems that Schœlcher also suggested to grant a plot of land to the freed persons as compensation. However, both the commission and Provisional Government rejected this idea. Blériot, 'La loi d'indemnisation', p. 154.

130) The draft Decree and explanatory memorandum are printed in *Le Moniteur Universel* 237 (24 August 1848), p. 2129-2030. Blériot, 'La loi d'indemnisation', p. 155. Buffon, 'L'indemnisation des planteurs', p. 66-67.

131) Articles 6 and 7 Draft Decree of 23 August 1848.

132) Cited in: Buffon, 'L'indemnisation des planteurs', p. 55.

133) *Le Moniteur Universel* 20 (20 January 1849), p. 185, and 114 (24 April 1849), p. 1307.

object to compensating the ‘owners’ individually, defended the old plan in which the indemnity was meant to benefit ‘aux colonies et aux nouveaux citoyens, et non pas aux colons seuls’.¹³⁴⁾ He was convinced this was the only way to save the colonies and grant the emancipated persons a secure existence.

Emiland Menand was more critical.¹³⁵⁾ As we have seen, he rejected on principle the exclusive compensation of the ‘owners’ individually because slavery was ‘une grande et affreuse injustice’. If emancipation were to be accompanied by paying indemnity, the freed persons also deserved compensation: ‘On serait conduit à cette conclusion inévitable, que l’indemnité serait due autant aux esclaves qu’à leurs anciens maîtres’.¹³⁶⁾ He suggested an amendment that would effectively replace individual compensation with a subsidy for the colonies, which was partially intended to encourage trade to ensure the colonies as a whole would benefit.

As mentioned, the majority of the Assembly went along with the government’s new proposal, and therefore, the individual ‘owners’ were the exclusive recipients of compensation.¹³⁷⁾ Clearly, the movement to achieve reparations for former slaves had failed.

In the Netherlands, the compensation of emancipated persons was hardly a topic of discussion at all. The only apparent supporter of reparations was Dutch publicist Julien Wolbers (1819-1889), who proposed providing some money to improve the position of the freedmen, albeit not individually.¹³⁸⁾ Wolbers was a fierce advocate of immediate and complete emancipation for religious reasons and was therefore active in the Society for the Promotion of the Abolition of

134) *Le Moniteur Universel* 114 (24 April 1849), p. 1304. Blériot, ‘La loi d’indemnisation’, p. 156.

135) *Le Moniteur Universel* 114 (24 April 1849), p. 1303. Blériot, ‘La loi d’indemnisation’, p. 154-155.

136) *Le Moniteur Universel* 114 (24 April 1849), p. 1303.

137) *Loi no. 285 du 30 avril 1849 relative à l’indemnité accordée aux colons par suite de l’abolition de l’esclavage*.

138) See for more about him: F.K.H. Kossmann, ‘Julien Wolbers’ in: P.G. Molhuysen/F.K.H. Kossmann (eds.), *Nieuw Nederlandsch biografisch woordenboek* vol. 9 (Leiden: A.W. Bijthoff’s Uitgevers-maatschappij 1933), p. 1287-1288. J. van der Molen, ‘Wolbers, Julien’ in: *Biografisch Woordenboek van het Socialisme en de Arbeidersbeweging in Nederland* 4 (Amsterdam: Amsterdam University Press 1990), p. 222-226.

Slavery.¹³⁹⁾ In a pamphlet in 1857, he argued that slavery was a sin for which the ‘owners’ must admit guilt and do penance. The pamphlet included a draft act concerning emancipation.¹⁴⁰⁾ Interestingly, considering slavery a sin did not prevent him from suggesting financial compensation for the ‘owners’.¹⁴¹⁾ However, Wolbers also proposed that the same amount of money reserved for ‘owners’ be made available for the benefit of the emancipated persons.¹⁴²⁾ This could be used to build them schools, churches, and hospitals, among other things. As expected, this proposal was not implemented.

Finally, Pieter Jacob Elout van Soeterwoude (1805-1893), a member of parliament, mentioned compensation for freedmen briefly during the debates on the Emancipation Act in July 1862. He criticised the ten-year period of state supervision after emancipation and concomitant obligation of the freedmen to work for their former ‘owners’, for this would entail extra compensation for these ‘owners’. Elout van Soeterwoude, a board member of the Society for the Promotion of the Abolition of Slavery in 1853, wondered whether it was not the freedmen who were entitled to compensation for their suffering, carried from father to son for two centuries.¹⁴³⁾ However, this was likely a rhetorical question in support of his argument against the ten-year period of state supervision. Thus, nobody took it seriously.

139) His participation in the Society is evident from his pamphlet: J. Wolbers, *De slavernij in Suriname, of dezelfde gruwelen der slavernij, die in de ‘Negerhut’ geschetst zijn, bestaan ook in onze West-Indische koloniën!* (Amsterdam: H. de Hoogh 1853). He was also an advisor to the *Nederlandsch Jongelingsgenootschap ter Afschaffing der Slavernij* (Dutch Young Men's Society for the Abolition of Slavery), founded in 1853. Siwpersad, *De Nederlandse regering*, p. 229.

140) J. Wolbers, *Neerlands schuld en Neerlands roeping tegen de slaven in Suriname en verdere Nederlandsche Westindische bezittingen* (Amsterdam: H. de Hoogh 1857), p. 14-18.

141) See Article 2 of the draft.

142) See Articles 3 and 5 of the draft.

143) *Handelingen Tweede Kamer* 1861/62, p. 998 (session of 8 July 1862): ‘Zou de slaaf niet veeleer aanspraak hebben om bij dien meester en bij ons in Nederland, die het onregt duldden, althans eenige vergoeding te vragen voor het bittere leed, van vader tot zoon gedurende twee eeuwen gedragen?’. K. Nimako/M. Delea/M. Esajas, *Waarom vrijheid niet kon wachten: het parlementair debat rondom de afschaffing van de slavernij* (Amsterdam: NiNsee 2020), p. 116. K. Nimako, ‘Abolition without emancipation’ in: Allen/Captain/Van Rossum/Vyent (eds.), *Staat & Slavernij*, p. 125-131 (128).

3.2 The United States

In Europe, France came the closest to compensating freed persons due to the revolutionary nature of the Provisional Government of March 1848. In the United States, proposals to compensate the victims of slavery were more concrete. To some extent, this resulted from the more radical nature of their abolitionist movement. As discussed, this movement included a relatively large number of free persons of African descent who fought for the liberation of their peers who were still enslaved. In 1855, Frederick Douglass and Gerrit Smith (1797-1874) helped found the *Radical Abolitionist Party*, which advocated the abolition of slavery accompanied by a redistribution of land in favour of those who were freed, among others.¹⁴⁴⁾ Two years later, Smith designed a plan for emancipation, in which freedmen would be awarded a plot of land and 25 dollars.¹⁴⁵⁾ The funds for this would be derived from the sale of public land. Note that the United States expanded westwards at the expense of its original indigenous population, which yielded large swathes of land.¹⁴⁶⁾

The availability of land facilitated the development of plans to compensate the freedmen. It was therefore crucial that abolition was inseparably linked to the civil war.¹⁴⁷⁾ As mentioned, the ‘owners’ of persons in slavery received no compensation when the constitutional amendment to abolish slavery was passed. On 8 April 1864, Senator Charles Sumner (1811-1874) of Massachusetts argued in a speech on the introduction of this amendment that such compensation could not exist, for it would be based on the ‘intolerable assumption of property in man’.¹⁴⁸⁾ He believed that if compensation was to be paid, it would not be to the ‘owner’, ‘who for generations has robbed the slave of his toil and all its fruits’, but to the formerly enslaved persons. However, Sumner did not consider the latter feasible because the extent of the compensation required was difficult to determine. In his view, the final settlement was better left to ‘the heavenly tribunal’, likely a

144) Stauffer, ‘Frederick Douglass’, p. 217.

145) Stauffer, ‘Frederick Douglass’, p. 218.

146) The idea of using land in the west for emancipation was already advanced at the end of the eighteenth century by the Quaker and anti-slavery activist Anthony Benezet (1713-1784). Fladeland, ‘Compensated emancipation’, p. 171.

147) See for attempts during and after the Civil War to redistribute confiscated land to the freed: Araujo, *Reparations for slavery*, p. 92-93.

148) H. Sumner, *Universal emancipation without compensation* (Washington, DC: H. Polkinhorn 1864), p. 9.

reference to God. He remarked: 'The loss of wages may be estimated, but where is the tariff or price-current by which those other losses which have been the lot of every slave shall be determined. Mortal arithmetic is impotent to assess the fearful total sum'.¹⁴⁹⁾

Less than a year later, General William Tecumsee Sherman (1821-1891) made the ground-breaking decision to compensate the freed persons.¹⁵⁰⁾ On 16 January 1865, he signed Special Field Order no. 15, which delegated 40 acres of land to the families of former slaves. This decision was made possible by the confiscation of lands of rebellious southerners along the coast of South Carolina and Georgia. By June 1865, some 40,000 freed persons had been settled there. In addition, Congress funded the creation of the Bureau of Refugees, Freedmen, and Abandoned Lands in March 1865 under the auspices of the War Department.¹⁵¹⁾ In July 1865, General Oliver Otis Howard (1830-1909), commissioner of the Bureau, delegated the confiscated or abandoned land in the South for the immediate use of refugees and freedmen. However, the same year, both orders were rescinded by President Andrew Johnson (1808-1875), who had assumed office after the assassination of Abraham Lincoln on 14 April 1865.¹⁵²⁾ Johnson pardoned the former Confederates and restored their property rights to the confiscated lands.

Two years later, Thaddeus Stevens (1792-1868), a radical Republican representative from Pennsylvania, renewed efforts to compensate freedmen. On 11 March 1867, he introduced a bill in the House of Representatives proposing the confiscation of all public lands belonging to the Southern States.¹⁵³⁾ According to Article 4 of this bill, those lands were to be used, inter alia, to allocate 40 acres of land to freed persons in the South who were the head of a household, the equivalent of about 16 hectares. In addition, 50 dollars would be set aside for each household to erect buildings on this land.¹⁵⁴⁾ However, the bill was never passed. After the end of the period of *Reconstruction* in 1877, the Southern States

149) Sumner, *Universal emancipation*, p. 9.

150) J.R. Kerr-Ritchie, 'Forty acres, or, an act of bad faith' in: Martin/Yaquinto (eds.), *Redress for historical injustices*, p. 222-237 (222-223).

151) Kerr-Ritchie, 'Forty acres', p. 223-224.

152) Kerr-Ritchie, 'Forty acres', p. 224 and 227. Berry, 'Taking the United States to court', p. 98.

153) Article 1 *Bill relative to damages done to loyal men*, H.R. 29 (40th Congress, first session). Kerr-Ritchie, 'Forty acres', p. 224-225.

154) Artikel 5 *Bill relative to damages done to loyal men*.

regained their autonomy and the chance of compensation for freedmen disappeared.¹⁵⁵⁾ The position of the freedmen deteriorated in these states, exemplified by measures that restricted their right to vote. Eventually, the US government decided that restoring the Union was more important than granting justice to the victims of slavery.¹⁵⁶⁾

Unlike in Europe, the movement for reparations for freed persons continued for more than half a century despite these failures.¹⁵⁷⁾ This can be explained by the fact that millions of liberated African Americans lived in the United States, not in faraway overseas colonies.¹⁵⁸⁾ From the late 1880s, the federal government was pressured to pass legislation granting them pensions for their unpaid work during their years in slavery. This ‘pension movement’ started in the South, not only because many of the emancipated persons resided there, but also because some white Southerners expected the impoverished South to benefit from these pensions. This explains why the movement was initiated by Walter Raleigh Vaughan (1848-1915), born in Virginia and son of a former slave ‘owner’.¹⁵⁹⁾ He was in contact with the important early abolitionist Frederick Douglass, who also supported the cause.¹⁶⁰⁾ In 1890, he persuaded Congressman William James Connell (1846-1924), a Republican member of the House of Representative for Nebraska, to introduce a bill providing pensions to formerly enslaved persons.¹⁶¹⁾ However, nothing came of this legislative proposal.

In the second half of the 1890s, at least two other pension associations were established in an attempt to compensate freedmen financially, both of which were spearheaded by African-Americans. As mentioned, the abolitionist movement was already supported in the United States by many free citizens of African descent.

155) Araujo, *Reparations for slavery*, p. 2. Drescher, *Abolition*, p. 330-331.

156) R.P. Salzberger/M.C. Turck (eds.), *Reparations for slavery. A reader* (Lanham/Boulder/New York/Toronto/Oxford: Rowman & Littlefield Publishers, Inc. 2004), p. 67.

157) Araujo, *Reparations for slavery*, p. 2-3, 83-84, 99-107 and 183.

158) During and after the Civil War, approximately four million enslaved persons were liberated.

159) M.F. Berry, ‘Reparations for freedmen, 1890-1916: fraudulent practices of justice deferred?’ in: *The Journal of Negro History* 57/3 (July 1972), p. 219-230 (220-222). J.M. Davidson, ‘Encountering the ex-slave reparations movement from the grave: the National Industrial Council and National Liberty Party, 1901-1907’ in: *The Journal of African American History* 97/1-2 (2012), p. 13-38 (17).

160) Berry, ‘Reparations for freedmen’, p. 222-223. Berry, ‘Taking the United States to court’, p. 93.

161) Berry, ‘Reparations for freedmen’, p. 221-223. Bill H.R. 11119, probably during the 51st Congress.

The most prominent is likely the National Ex-Slave Mutual Relief, Bounty, and Pension Association of the United States founded by Callie D. House (1861-1928) and Isaiah H. Dickerson (1858-1902).¹⁶²⁾ The other was the National Industrial Council of America, with reverend Stanley P. Mitchell (1871-1908) and Isaac L. Walton as its main proponents.¹⁶³⁾ In 1903, there were two other efforts at passing legislation at the request of leaders of the pension associations, but these were again unsuccessful.¹⁶⁴⁾

In a final effort to realise reparations, a class action lawsuit was filed against the United States by four African-Americans in July 1915, likely instigated and paid for by House.¹⁶⁵⁾ The suit concerned the taxes on cotton collected between 1862 and 1868, which were laying unused in the treasury. The plaintiffs argued that the freed persons deserved money for what they had produced during their time in slavery and that this money was ready and available. In 1916, the Court of Appeals of the District of Columbia denied the claim on the grounds of government immunity.¹⁶⁶⁾

Ultimately, the pension movement failed. A considerable explanatory factor is that the federal government thwarted it in numerous ways including by criminalising the organisers.¹⁶⁷⁾

4. Significance of the findings for the contemporary debate on the compensation of descendants of the freedmen

Since the end of the eighteenth century, criticism of the institution of slavery accelerated in response to the ideals of the Enlightenment and revolutionary movements resulting from it, such as the American and French Revolutions. This criticism was crucial leading up to abolition in most Western countries in the

162) Berry, 'Reparations for freedmen', p. 223. M.F. Berry, 'In search of Callie House and the origins of the modern reparations movement' in: *Journal of African American History* 91/3 (2006), p. 323-327. Davidson, 'Encountering the ex-slave reparations movement', p. 18.

163) Davidson, 'Encountering the ex-slave reparations movement', p. 18-27.

164) Senator Mark Hanna (1837-1904), from Ohio, introduced a bill on 4 February 1903 at the request of Walton. In the same month, Spencer Blackburn (1868-1912) introduced the same bill in the House of Representatives at the request of Vaughan. Davidson, 'Encountering the ex-slave reparations movement', p. 22-24.

165) Berry, 'Reparations for freedmen', p. 227. Berry, 'Taking the United States to court', p. 97-100.

166) *Johnson v. McAdoo*, 45 App. D.C. 440 (1916).

167) Berry, 'Reparations for freedmen', p. 228-230. Davidson, 'Encountering the ex-slave reparations movement', p. 23-27.

nineteenth century. As this article details, this criticism also influenced the issue of financial compensation. It became almost generally accepted that slavery was against natural rights, which complicated the preference of property rights over human beings. Consequently, complete compensation of the 'owners' was not taken as a given. In Britain, France, and the Netherlands, this inspired discussions about the proper terminology to use in the legislation initiating abolition: 'indemnity' or 'compensation'. In Britain and the Netherlands, the legislator chose the latter option, thereby indicating that the 'owners' were not 'expropriated'.

However, the fact that the legal basis of slavery was removed did not prevent the compensation of 'owners' for the costs of emancipation by the governments of these European countries. This was mainly the result of a powerful 'West Indian' lobby of stakeholders. Ultimately, compensation of the 'owners' was more of a political decision than a strictly legal one. The same applies to the lack of compensation for those liberated. Although many politicians and publicists recognised that slavery violated fundamental principles of law, few defended a right of the freedmen to indemnity. Obviously, the lobby of the enslaved persons for compensation was weak, especially in the European countries. Since they could not vote, they were not represented in parliaments, but dependent on a few radical abolitionists who advocated their cause. Thus, they were unable to influence parliamentary decision-making, leaving them without compensation. In Britain and the Netherlands, the victims of slavery had to contribute to the costs of their own emancipation, for they were subjected to an apprenticeship entailing forced labour for several years.

A third factor played a role in the granting of compensation to freedmen after emancipation, namely the availability of substantial funds. In Great Britain, France, and the Netherlands, such funds were scarce and the taxpayers of these countries had already paid for the compensation of the 'owners' for many decades. In the United States, the situation was different because the abolition of slavery took place in the wake of a civil war waged around the issue of emancipation. After their victory, the Northern States considered confiscating the public lands in the South, which would make funds available for compensation. In addition, the United States had conquered territories in the west, which could also be used if necessary. This availability may explain why plans to compensate liberated persons became more concrete in the United States than in the European countries. However, despite that many people of African-American descent were involved in this lobby to secure compensation for recently freed slaves, it remained relatively weak.

In conclusion, the idea of compensation after emancipation tended to have a more political than legal character. This means that even today, the potential financial compensation of the descendants of freed slaves does not necessarily need a strictly legal basis. Thus, legal problems such as the statute of limitations may not need to be an obstacle. Furthermore, there are verifiably sufficient funds available in both Europe and the United States for such compensation. In the Netherlands at least, the government has already made 200 million euros available for measures to raise awareness of the history of slavery and mitigate its impact on the present. However, most countries still lack the political will to direct the funds to individual descendants of enslaved people. Whether this is justified remains a salient question, but its adjudication is beyond the scope of this paper.¹⁶⁸⁾

168) For some interesting contributions in this context, see: F. Vergès, “‘I am not the slave of slavery’”. The politics of reparation in (French) postslavery communities’ in: A.C. Alessandrini (ed.), *Frantz Fanon: critical perspectives* (London: Routledge 1998), p. 261-278. C.S. Maier, ‘Overcoming the past? Narrative and negotiation, remembering, and reparation: issues at the interface of history and law’ in: Torpey (ed.), *Politics and the past*, p. 295-304. F. Guadeloupe, ‘Reparaties als een hedendaagse uiting van een permanente revolutie’ in: *BMGN - Low Countries Historical Review* 129/4 (2014), p. 106-117. L.J. Laplante, ‘Just repair’ in: *Cornell International Law Review* 48/3 (2015), p. 513-578. N. Immler, ‘Een perspectief op herstel en *transformative justice*’ in: Allen/Captain/Van Rossum /Vyent (eds.), *Staat & Slavernij*, p. 95-105.