What does this extract from the *Code Noir* tell us about the relationship between slaves and masters?

Criteria assessed

This question assesses the candidate's ability to provide a thoughtful, judicious and empathetic understanding of the past. In order to achieve this, candidates must read the text carefully and critically, show attention to detail, deploy evidence in an effective and appropriate way, and exhibit historical imagination where necessary.

Interpretation of the question

The key to this question lies in the word 'relationship.' Clearly, the text suggests a range of aspects to this relationship between slaves and masters. On the easiest level, these are about how slaves should be subordinated, controlled and legitimately punished by their masters.
On another, it is about how masters should take more responsibility, and treat their slaves in a more 'humane' manner. A third aspect is how the 'relationship' can be broken through the process of manumission. Strong candidates, though, should see that these elements add up to an analysis of a relationship which is both under pressure and capable of change. This leads to a fourth observation: that the 'relationship' also involves the French state, which is seeking to consolidate or challenge the status quo in some respects, while more generally emphasising that both masters and slaves are subjects in relation to the crown. Fifthly, therefore, the status of both masters and slaves is dependent on the will of the state. Slaves can be made free, and masters deprived of their slaves, and thus their mastery. There is no suggestion that there is any fundamental natural, racial or moral distinction between slaves and masters.

In order to access the full possibilities of the text, candidates need to see that the *Code* has been produced with the intention of changing some elements of the status quo. To do this, candidates will need to discern that the *Code* itself is clearly the product of the French state – or even church-state – and is written from a point of distance. Strong candidates
might also see that this distance potentially limits the source's utility when it comes to working out what was really going on in these slave-owning societies. The aim of the state is

to increase control over its colonial possessions, and to regulate both slaves and masters according to its own priorities and ideals. Strong candidates may see that the interests of the 'author' are not wholly consistent, because they are trying to weigh and represent a range of different interests. These interests, and the state's mixed attitudes to the master-slave relationship, are manifested in several different ways.

Summary of themes

Religion and the state

- Religious homogeneity is a clear aim, but implicitly a present problem.

- It is important that slaves become good Catholics. However, the text makes clear that the problem here lies at least as much with the masters as with their slaves. In Article V, though, it is suggested that slaves have learned to use religious language to hide subversive practices.

- Religion is often understood in terms of the interests of the French state. The text sees a tension between the economic interests of masters and the religious 'rights' of slaves, and wishes the colonial state to regulate these.

- In general, it seems that the over-arching purpose of the *Code* is to regulate both masters and slaves according to a series of ethical and confessional frameworks which are often mediated through the language and institutions of Catholicism, but which are in fact guided and overseen by the priorities of the French state and its increasing colonial presence.

Master / slave relations

- The *Code* tends to assume that slaves will transgress when they can: far more focus is given to the decisions of the masters, who are clearly proving to be negligent in a variety of ways. Masters require regulation too. Indeed, the institution of slavery, as seen by the *Code*, can perhaps only exist meaningfully when masters behave as they should.

- The insistence that slaves are adequately provided for, together with legal recourse, suggests that the *Code* is targeting abuses. But this legal recourse, as hinted at in Article X, also suggests that slaves have limited legal rights. Nevertheless – and under the cover of some soaring rhetoric – this article haltingly tries to suggest lines of communication between slaves and the state, which bypasses masters.

Clearly master / slave relations can be rather close as well as abusive: the *Code* seeks to regulate both. (See below.)

Economics

- It is clear that the text is targeting some sort of an unregulated economy. The state is now interested in *who* is doing the selling. There are two implications here: that the masters need to be more involved to function properly as masters, and that the notion of 'selling' is peculiarly reserved for free men, (slaves are sold: they cannot sell.)

- Masters are not trusted: as with Sundays and holidays, it is clear that state 'officials' are needed to regulate their activity. The reference to 'tokens' also suggests that it is the authority of masters that is being regulated as well as the activity of their slaves.

- The text is silent about the fundamentally economic purpose of the institution of slavery. It is assumed. However, the text does not press for increased economic efficiency; rather it seeks to regulate economic exploitation, while also making master / slave roles more concrete. On the other hand, Article VII gives a strong indication that the production and sale of sugar cane is especially important to the colonial economy, and the punishments for this type of unregulated selling are relatively harsh.

Manumission

- Slavery is not portrayed as a state into which one is naturally born and from which there is no escape. Manumission can be granted gratuitously. However, it is noted in Article III that slaves can be confiscated as a form of punishment for masters. This might suggest that a legal provision is being made for something that carries a strong economic counter-imperative.

- Manumission can stem from an acknowledgement on the master's part that the slave has become trusted. Indeed, the involvement of slaves in will-making and tutoring suggests that the roles can become distinctly blurred. Article XIII is also interesting for the phrase 'will be deemed manumitted.' Strong candidates might puzzle constructively about the circumstances that might necessitate this precise formulation.

- Former slaves must be grateful for their freedom. Their legal equality is even compromised by this sense of gratuitous gift, in Article XIV. The system of slavery is potentially legitimised by the attitudes of former slaves that the *Code* seeks to dictate.

- On the other hand, former masters also need to understand that their former slaves are now free. This suggests a continuing cultural assumption that former slaves are still, in some sense, indebted.

- Freedom is a route to virtue, and should be understood as such. Article XV says a lot about how the King wants his *Code* to be thought about in wider terms. On the other hand, the rhetoric of this final provision sits at odds with the more detailed clauses of the text itself.

Punishments

- Slaves are always punished physically or, ambiguously, are 'confiscated' (presumably by the state). The implication is that their body is their only possession. Masters are usually punished financially, but the text suggests that administrative and purely economic offences are punished less severely, and slave insurrection is also treated semi-sympathetically with regard to the masters, whereas crimes in religious matters are understood as rebellion against the French state and are punished much more severely.

Marking guidelines

This scheme is not based upon candidates answering in a particular type of way. They might equally well or badly organise their response around one central theme or make a range of different observations about the text. Candidates should be judged on what is included rather than what is left out. Examiners should award appropriate marks to any type of response, based upon the criteria that the candidate answers the question, uses evidence from the source appropriate to their interpretation, analyses intelligently and in sufficient depth, sees the importance of the source, links evidence well, and speculates within effective bounds where necessary. Please note that unlike in question 2 candidates are not expected to make an *argument*, but rather to explore the evidence in a sensitive and empathetic manner. The examples given within each band do not constitute necessary criteria, but are intended to reflect the sorts of insight which might be expected at this level. Finally, it is relatively common for candidates to run out of time and write a short-weight response to this question. If the marker feels that the answer is good in its own terms but lacks the depth of other answers then the limited level of analysis should be reflected in the mark given: in sum, it will be rare that short-weight answers are able to rise above the top of the third band.

Two points more specific to this text and question should be borne in mind:

First, slavery is an emotive issue, especially when it is seen through the lens of race. Candidates should be given some leeway for expressing disapproval of the institution, and even for making some passing anachronistic remarks. Some candidates may take the 'Noir' of the document's title to refer to race. This is legitimate, but will not get the candidate far – there is no evidence in the text itself which helps to develop the racial angle, and the evidence relating to manumission shows that slavery was not seen to be a fixed or permanent state.
Candidates who achieve good marks must be able to see the nuances in the text, and to engage with it in an empathetic and imaginative manner.

Second, this question does not suggest to the candidate that general comments about the limitations of the source are especially relevant. Stronger candidates will almost certainly find ways of connecting the assumptions and implications, and may make perceptive remarks about why a constitutional document is unlikely to give them the straightforward answers that we might otherwise like. More formulaic answers, though,

may seek to observe a series of negatives (for instance that the text tells us nothing about people who don't live in the French colonies), and the weaker answers of this sort will tend to ignore the demands of the question and the positive evidence that is available.

33-40 marks. Answers in the top band will show that they have read the text closely and perceptively, and are able to talk in a concrete way about the themes that they have identified. They should also show some level of historical imagination and critical insight. It will be difficult for answers to enter this band unless they see that the *Code Noir* is trying to change the status quo, is seeking to regulate the behaviour of masters as well as slaves, and neither treats slavery as a fixed category nor assumes that masters are by nature superior beings.

Answers in this band may see some of the following: that the importance of religious homogeneity is deeply related to state interests and institutions; that slaves are not only exploited, but also sometimes so trusted that the distinction between 'slave' and 'owner' effectively disintegrates; that the requirement that former slaves show particular respect for their former owners serves to place reform within a context which supports the system itself; that masters also need to be regulated, and that economic exploitation in particular has to be tempered by religious values and some sense of a duty of care toward the slaves themselves; that the text represents an attempt by the French state to intervene in colonial societies in which masters are seemingly guilty of both excessively severe and lax relationships with their slaves. Stronger answers in this band may also make some use of the differentiated punishments laid out in the text to probe the assumptions and priorities of the *Code*. Answers may also push into this band if they speculate intelligently about why the text may have been written in the first place, and show awareness that although a constitutional document is unlikely to provide a great deal of specific analysis it is possible to join the dots imaginatively to get a good sense of what is being reacted to and what is being prioritised.

23-32 marks. Upper-middle band answers engage actively with the text, connect evidence to interpretation clearly, and toward the higher end will tend to prioritise analysis over description. Stronger answers, here, may still fall short of the top band because they do not fully see: the differing priorities with which the text grapples, and often fails to resolve; the extent to which the *Code* mandates the state to regulate religious and economic life; the ways in which differentiated punishments indicate wider priorities and values; the extent to which close relationships between 'owners' and 'slaves' complicate the categories themselves.

Answers which are perceptive in places, but which make too much use of the more obvious points about the oppression of slaves, are also likely to belong in this band. Conversely, some candidates may latch onto the manumission theme and see it as the 'key' to the text, drawing upon spurious abolitionist frames of reference: answers which make too much of this may even belong in the band below. Finally, otherwise strong answers which spend too long speculating fruitlessly about what the edited extract does not tell us may also be

banded here. Answers in this band may see: that the *Code Noir* is trying to change something and is not uncritically pro-master; that the text has more than one aim, and that these aims are not always easy to reconcile (but probably with little clear sense of why); that relationships

between slaves and masters can become close; that manumission is an important part of the *Code*'s agenda; that the word 'Noir' may refer to race, but that the text itself does not develop the notion that slavery has a racial basis.

13-22 marks. Lower-middle band answers will engage with both the text and the question, but tend toward description or weakly grounded speculation. Better answers in this band may fall short of the higher range because although they see some of the important connections they elsewhere rely upon description more than analysis, and tend to list points rather than prioritise or thematise. Answers in this range may: feature an anachronistic commentary about the ills of slavery, dealing in only a cursory way with counter-evidence, and focussing consistently on some of the more obvious points about punitive treatment of slave criminality; take a black and white view that either manumission or punishment constitutes the core principle of the text; make little distinction between the implied status quo and what the *Code Noir* seeks to achieve; assume that slaves are always punished severely and that masters always get off lightly; make far too much of the word 'Noir.' Weaker responses
might also speculate much more about what isn't in the text than analyse the evidence that is available. Answers toward the bottom of this band may also feature significant misunderstandings or wholly ignore evidence which challenges their main points.

0-12 marks. Answers in this band may treat the source uncritically, make wild assumptions beyond the text, or focus remorselessly upon one feature of the text in a manner that is extremely basic. They may also try to introduce outside knowledge. Some candidates may try to apply a set of assumptions about how slavery functioned in other societies to this text: for instance by using the word 'Noir' to segue into unsupported speculation about racism or biological essentialism, to assume that all black people were slaves and that all masters were white and so forth. Answers which are dominated by this sort of commentary are likely to belong in the bottom band. So too are answers which largely ignore the question. Answers which merely paraphrase or quote sections from the text in a manner which implies limited independent thought or engagement should also be placed in this band.