

WHEN LITERATURE BECOMES LAW: CLARIFYING CÉSAR NICOLÁS PÉNSON’S RENDITION OF THE CASE ABOUT THE PRISONERS OF GALINDO

PONENCIA

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I. Introduction

“For the things of the past are never viewed in their true perspective or receive their just value; but value and perspective change with the individual or nation that is looking back on its past.”

Friedrich Nietzsche,
*The Use and Abuse of History*¹

In late 1822, almost a year after President Jean Pierre-Boyer unified the western and eastern parts of the island of Haiti under one government, a gang of Dominican criminals raped and murdered Don Andrés Andújar and his three daughters in the *Hacienda Galindo*. The ruling associated with the case, since known as the *Case of the Prisoners of Galindo* (*Sentencia de los reos de Galindo*), described the gruesome events and subsequent prosecution of the residents of the east who

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¹ Friedrich Nietzsche, *The Use and Abuse of History*, 19 (Adrian Collins, trans., Macmillan/Library of Liberal Arts 1957).

were responsible.² However, in 1891, César Nicolás Pénson published a literary rendition of the case titled *Las Vírgenes de Galindo*, where he argued that Haitians rather than Dominicans murdered the Andújar family.³ Pénson's narrative sought to use the *Case of the Prisoners of Galindo* to describe the prior Haitian Unification as a "domination" premised on the criminal occupation and rape of Dominicans. Since then, subsequent legal historians have used Pénson's rendition to describe the events documented by the *Case of the Prisoners of Galindo*. Notwithstanding the fact that Pénson's narrative is neither substantiated or can be substantiated by the publicly available evidence, Dominican nationalists continue to use him as a reference to describe the murder in Galindo.

This article analyzes how the historical *Case of the Prisoners of Galindo* was displaced by Pénson's rendition in *Las Vírgenes de Galindo*. I argue that Dominican nationalists have purposely privileged Pénson's narrative over the historical version of events in order to affirm a Dominican nationalist rhetoric premised on anti-Haitianist ideologies. Part I describes the *Case of the Prisoners of Galindo* and contextualizes the crime within the prevailing Haitian Unification debates of the period. Part II provides a summary of Pénson's story, *Las Vírgenes de Galindo*, and explains how he used the murders in Galindo to describe the Haitian "domination." Part III explains how Pénson's narrative displaced the official ruling in the case of Galindo and became an official part of what Nietzsche would describe as a monumental Dominican history. My goal is to show how Dominican nationalists have used legal narratives to legitimate racist, misogynist, and anti-Haitianist ideologies.

II. The Trial of Galindo and the Haitian Unification

Historically, Dominican nationalists have invoked Pénson's rendition of the *Case of the Prisoners of Galindo* to describe the negative effects of the Haitian Unification period in the eastern part of the island or the Dominican Republic. In 1821, the residents of the eastern or Spanish part of the island successfully declared independence from Spain and began to construct the *Estado Independiente de Haiti Español*.⁴ By year's end, however, Haitian President Jean Pierre Boyer entered Santo Domingo and acquired the *Haiti Español* in a bloodless occupation. President Boyer unified the whole island under the Haitian Republic until he was expelled from power in 1843. Following Boyer's demise and subsequent efforts by Haitian leaders to cement their power over the island,

² Ramón Lugo Lovatón, *Sentencias Penales de la Época Haitiana de 1822 a 1831*, 16 Boletín del Archivo General de la Nación 332 (1953).

³ César Nicolás Pénson, *Las Vírgenes de Galindo in Cosas añejas, tradiciones y episodios de Santo Domingo*, 211 (Imprenta Quisqueya 1891).

⁴ B. Wenceslao Vega, *Los documentos básicos de la historia Dominicana*, 155 (Taller 1994).

Dominicans began the process of separating from Haiti. In 1844, Dominicans formally separated from Haiti and engaged in the complex and fragmented process of constructing a new nation-state.⁵ Subsequently, Dominicans began to construct a narrative of national independence framed in reference and against the Haitian Unification period.

The ensuing nationalist narrative described the Haitian Unification as a period of occupation and domination obscuring the complexity of the period as well as its progressive dimensions.⁶ Let us remember that President Boyer marched into Santo Domingo and took possession of the east without having to fight a war. To be sure, President Boyer arrived in Santo Domingo as a liberator with the Haitian revolution's promise to end slavery as well as to redistribute land and wealth to the majority of the inhabitants of the *Haiti Español*.⁷ According to Dominican historian Emilio Cordero Michel⁸ at the time both the Catholic Church and upwards of 5% of the population, white or Spanish elites, owned and controlled more than 90% of the eastern lands.⁹ While it is true that the residents of the east would subsequently fail to embrace Boyer's land reforms, the historical record is clear that the Haitian Unification brought progressive citizenship rights to the vast majority of the inhabitants of the east. This of course is not to say that Boyer's dictatorship was emblematic of a democratic revolution, but the Haitian Unification did grant the residents of the east a measure of equality and set out to dismantle more than three centuries of Spanish feudalism.¹⁰

Following the Haitian Unification, the regime divided the eastern part of the island in two departments, namely the northern department of Cibao and the southern department of Ozama. The Haitian regime also created two corresponding criminal courts correspondingly situated in Santiago and Santo Domingo to apply the new laws in an uniform and consistent manner. More importantly, as Wenceslao Vega B. and Américo Moreta Castillo note, the penal court in Santo Domingo was

⁵ *Id.* at 189-206.

⁶ See for example Frank Moya Pons, *La dominación Haitiana, 1822-1844* (Universidad Católica Madre y Maestra 1972); and Manuel Arturo Peña Batlle, *Orígenes del Estado Haitiano* (2da ed., La Trinitaria 2005).

⁷ Frank Moya Pons, *The Dominican Republic, A National History*, 123 (Hispaniola Books 1995).

⁸ Professor Emilio Cordero Michel teaches history at the Universidad Autónoma de Santo Domingo and is a former president of the Academia Dominicana de la Historia. Professor Cordero Michel is one of the leading Dominican historians that have written about the Haitian Unification period. For a comprehensive biographical sketch of Professor Cordero Michel, see generally HOMENAJE A EMILIO CORDERO MICHEL (Waler Cordero et al. Academia Dominicana de la Historia 2004).

⁹ Interview with Professor Emilio Cordero Michel in Santo Domingo, Dominican Republic (July 10, 2004). While little empirical evidence is available to confirm these estimates, the scant available empirical evidence suggests that Professor Cordero Michel's analysis is not incorrect. See Roberto Marte, *ESTADÍSTICAS Y DOCUMENTOS HISTÓRICOS SOBRE SANTO DOMINGO* (1805-1890) (2da ed., Museo Nacional de Historia y Geografía 1984).

¹⁰ Vega, *supra* n. 4 at 178.

comprised of judges of Spanish heritage.¹¹ These civil tribunals were charged with adjudicating civil and criminal cases in each department.

The *Case of the Prisoners of Galindo* was decided on November 6, 1922 in Santo Domingo. A panel of judges found Pedro Cobial, Manuel de la Cruz, and Alexandro Gómez, all natural inhabitants of the eastern part of the island, guilty of murdering Don Andrés Andújar and his three daughters, Aguada, Ana Francisca, and Marcela on May 30, 1822 in the hacienda Galindo. According to the facts of the case, the accused ambushed Don Andújar on his way to the hacienda and murdered him in cold blood. They subsequently stole his horse and marched to the hacienda Galindo where according to the testimony of a surviving witness, the housekeeper Ysabel, they raped and murdered Don Andújar's daughters. In addition, the Court accepted circumstantial evidence to cement its judgment. First, the Court noted that Don Andújar's white horse was found in Cobial's house the day after the murders occurred.¹² Second, the Court noted that Cobial had previously murdered a person known as "Gabriel" and had also been arrested in 1821 for encouraging mayhem and destruction.¹³ Third, state authorities also found de la Cruz, Cobial's inseparable accomplice, wearing a bloodied shirt on the day after the murder.¹⁴ Finally, the Court noted that the accused possessed criminal records for robbery and public violence.¹⁵ On the basis of this evidence, the Court sentenced Cobial and de la Cruz to ten years in prison, and Gómez to five years of hard labor.

Suffice it to say that the original ruling in the *Case of the Prisoners of Galindo* left no doubt that the perpetrators of the murders were known criminals and inhabitants of the eastern part of the island. Notwithstanding the additional circumstantial evidence, the housekeeper Ysabel's testimony served to establish the guilt of Cobial and his friends. Stated differently, the Court established that the perpetrators of the murder in Galindo were easterners and were not black Haitians from the western part of the island. More importantly, the trial of Galindo, like other trials of the period, affirmed both the rule of law within the newly unified Haitian Republic and the notion that the eastern part of the island would be governed as an integral part of the unified nation-state.

III. Las Vírgenes de Péñon

In 1891, almost seven decades after the Court rendered its judgment in the *Case of the Prisoners of Galindo*, César Nicolás Péñon published a nationalist rendition of the events in a story titled *Las Vírgenes de Galindo* claiming that black Haitian

¹¹ B. Wenceslao Vega & Américo Moreta Castillo, *Historia del Poder Judicial Dominicano*, 186-187 (Editora Corripio 2005).

¹² Lugo Lovatón, *supra* n. 2 at 334.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Lugo Lovatón, *supra* n. 2 at 335.

soldiers had been the true perpetrators of the crime. He purports to describe the real events and trial of Galindo as informed by popular knowledge and tradition. Pénon's narrative used the *Case of the Prisoners of Galindo* to both tell a story of the Haitian "domination" and simultaneously affirm a representation of a "savage" and "barbarian" Haitian lurking at the border/gates of the Dominican nation.

Pénon's rendition begins by invoking metaphorical comparisons between the crime and the Haitian "domination." According to Pénon, the victims were white and members of a Spanish elite reminiscent of the true Dominican identity.¹⁶ More importantly, he further appeals to a misogynist ethos by describing the young victims as fragile and innocent white virgins who would have otherwise become patriotic mothers of a white nation if they had not been raped and murdered by the Haitian occupiers.¹⁷ In contrast and in a Manichean manner, Pénon described the true assailants as black and savage Haitians who were evil by nature and reflected the values of the Haitian national identity.¹⁸ In addition, Pénon ascribed an almost liminal status to the housekeeper Ysabel, whom he first described as a "deaf-mute slave" who as the narrative progresses becomes a "mute" nanny and member of Don Andújar's household.¹⁹ Other characters of in Pénon's story also acquire racialized and metaphorical statuses within his anti-Haitianist narrative.

According to Pénon's narrative, he claims it is informed by popular knowledge and traditions, the Haitian murderers followed Don Andújar and killed him as in the cover of the night as he was returning to his *hacienda Galindo*. The Haitians then continued to Galindo and subsequently raped, murdered, and quartered Don Andújar's young daughters. According to Pénon, the slave/housekeeper Ysabel managed to hide and witness the events. The following day, Monsieur Sorapur, an old Frenchman exiled to the east during the Haitian Revolution, found the bodies during a hunting expedition near the *hacienda Galindo*. Soon after he reported the murders to the authorities and the state began a slow process of investigating the murders.

While describing the process, Pénon painstakingly sought to debunk the evidence introduced in the "official" version of the trial. For example, he described how Monsieur Sorapur had first discovered the white horse at the scene of the crime and how the hunter had encountered the Haitian perpetrators who were in the surrounding areas of the scene of the crime. More importantly, Pénon explains how after seven decades, popular knowledge and tradition revealed that the slave/housekeeper Ysabel had sought to identify the true Haitian murderers, but instead agreed to identify Cobial and his friends. Pénon's tale proceeds to describe the

¹⁶ Pénon, *supra* n. 3 at 212.

¹⁷ Pénon, *supra* n. 3 at 238-240. See also Lorna V. Williams, *Coloring the Poetic Voice in the Dominican Republic: Aida Cartagena's Yania Tierra*, 64 *Revista Hispánica Moderna* 205-206 (2011).

¹⁸ Pénon, *supra* n. 3 at 227-228.

¹⁹ Pénon, *supra* n. 3 at 233.

ensuing “official” trial as a political event designed to affirm the Haitian domination and simultaneously represent Dominicans as guilty of the original murder.²⁰ The conviction, Péñson alleged, was designed to find political scapegoats that could be used to legitimate the Haitian regime.

Péñson concluded his story with an epilogue purporting to report the “popular” trial of the Haitian murderers. According to popular knowledge and tradition, Péñson argued, the Haitian murderers were subsequently haunted by the specters of the “virgins of Galindo” and eventually died under mysterious circumstances. The Haitian murderers eventually became deranged and experienced innocuous accidents that led to tortured deaths. Fate judged the Haitian criminals and brought justice to the Dominican “virgins” and the nation.

Péñson’s narrative appealed to the emotive dimensions of an anti-Haitian Dominican nationalism. The story was anchored on an “official” ruling and offered an alternative narrative of the events that appealed to nationalist ideologies. More precisely, Péñson’s tale invoked racist ideologies, misogynist anxieties, and a mythical representation of a white/Spanish Dominican identity. Péñson’s story exploited enduring popular ideologies and traditions that affirmed a Manichean representation of a white/Spanish/civilized Dominican nation and a black/African/savage Haitian enemy.²¹

IV. How Literature Became Law

Six decades later, in 1953, the Trujillista historian Ramón Lugo Lovatón began to publish a selection of the penal rulings rendered during the Haitian Unification period in a special issue of the *Boletín del Archivo General de la Nación*, the official journal of the Dominican National Archives.²² Lugo Lovatón sought to use these penal rulings to construct an anti-Haitianist rendition of history that affirmed the prevailing conservative nationalist narrative of the Trujillo regime. In the introduction to this publication, Lugo Lovatón explained that rulings such as the *Case of the Prisoners of Galindo* served as documentation of the suffering and abuses inflicted upon the Dominican national family by the Haitian “domination.”²³ More specifically, Lugo Lovatón sought to demonstrate how the Haitian regime used the penal courts to enslave and repress innocent “Dominicans.”²⁴

In the introduction to the publication of the rulings, Lugo Lovatón repeatedly invoked Péñson’s story to describe the impact of the occupation on the east. For

²⁰ Péñson, *supra* n. 3 at 261.

²¹ Franklin Franco Pichardo, *Sobre racismo y antihaitianismo (y otros ensayos)* (Impresora Vidal 1997).

²² Lugo Lovatón, *supra* n. 2.

²³ Lugo Lovatón, *supra* n. 2. at 329.

²⁴ *Id.*

example, in a passage summarizing the value of rulings such as the *Case of the Prisoners of Galindo*, Lugo Lovatón argues:

Naturalmente, los crímenes por homicidio, robo, asaltos en los caminos públicos, estupro y gravidez, etc. se sancionaban con rigor porque no escapaba la perspicacia de las principales autoridades haitianas ni a sus cooperadores nativos, que en todo país invadido la ola creciente de crímenes y excesos no tarda en producirse, causada por un errado criterio colectivo de impunidad que se forma a raíz de todo cambio drástico de régimen político. Prueban esta afirmación, el asesinato de las Vírgenes de Galindo ... y confirma ese ambiente de la época, la espeluzante tradición con perfiles de hecho real, que bajo el título de “Drama horrendo”, describe la pluma de César Nicolás Pénson, refiriéndose al infanticidio que cometiera de 1823 a 1824, el incognito “mantuano” de la calle de Las Damas (emphasis mine).²⁵

Lugo Lovatón encouraged the use of Pénson’s rendition to describe the facts of the case and privileged the latter’s account over the stated facts of the ruling. The Dominican government’s official historian privileged Pénson’s “pen” over the words contained in the actual ruling.

Lugo Lovatón concluded with an exhortation to the reader to follow Pénson’s “imagination and spirit.”²⁶ According to Lugo Lovatón, Pénson’s research, guided by his love of tradition, helped to clarify the political events of the period. Pénson’s nationalist narrative provided the modern researcher with the right method of inquiry, a method that privileged the study of Dominican history within the confines of a nationalist goal. Read against the backdrop of Pénson’s *Las Vírgenes de Galindo*, the *Case of the Prisoners of Galindo* affirmed prevailing nationalist narratives, regardless of the facts.

Today, legal historians continue to invoke Pénson’s tale over the actual ruling. To be sure, in the 2005 *Historia del poder judicial Dominicano*, the Dominican Supreme Court’s official history of the republic’s legal system, renowned legal scholars use the following language to describe the rulings of the period:

Entre esas sentencias tenemos los casos célebres del proceso de derocar el gobierno del año en la llamada “*Conspiración de Los Alcarrizos*” y el caso de estupro y violación de las “*Vírgenes de Galindo*.”²⁷

²⁵ Lugo Lovatón, *supra* n. 2. at 331.

²⁶ *Id.*

²⁷ B. Vega & Moretta Castillo, *supra* n. 11 at 187.

V. Conclusion

I want to emphasize two points. First, Pénon's story, *Las Virgenes de Galindo*, is more grounded in myth than in fact. Pénon's narrative tries to fit a legal ruling into an anti-Haitianist nationalist discourse. The actual court ruling, a penal ruling that is readily available to a critical reader, tells a story where residents of *Haiti Español* murder other residents of the east. The ruling is devoid of all the nationalist imputations that Pénon ascribes in his tale. In my opinion, the endurance of Pénon's narrative says more about the willingness of nationalist Dominicans to privilege an anti-Haitianist narrative over the available historical record.

Second, and in keeping with the LatCrit project, my goal is to show how a legal narrative can provide an arena for the intersection of multiple ideologies. Dominican nationalists have used the *Case of the Prisoners of Galindo* and its subsequent "iterations" to construct a dualist narrative of power. To be sure, whereas the Dominican part of the island has been constructed as a white, Spanish and civilized nation, the Haitian part has been constructed as a black/African and barbaric nation always lurking at the border/gate. In addition, misogynist renditions of the case have further invoked depictions of white virginal women subject to the savage and lustful desires of the black and barbaric Haitian. Suffice it to say that Pénon's rendition is emblematic of the enduring anti-Haitian discourse that continues to frame the Dominican's Haitians as the enemy *Other*.