Black Codes (United States)

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The **Black Codes** were laws in the **United States** after the **Civil War** with the effect of limiting the **civil rights** and **civil liberties** of blacks. Even though the U.S. constitution originally discriminated against blacks and both **Northern** and **Southern states** had passed discriminatory legislation from the early 19th century, the term **“Black Codes”** is used most often to refer to legislation passed by **Southern states** at the end of the **Civil War** to control the labor, migration and other activities of newly-freed slaves.

In Texas, these codes were enacted in 1866, right after the Civil War. The legislation reaffirmed the inferior position that slaves and free blacks had held in antebellum Texas and was intended to regulate black labor. The codes reflected the unwillingness of white Texans to accept blacks as equals and also their fears that freedmen would not work unless coerced. Thus the codes continued legal discrimination between whites and blacks. The legislature, when it amended the 1856 penal code, emphasized the continuing line between whites and blacks by defining all individuals with one-eighth or more black ancestry as persons of color, subject to special provisions in the law.\[1\]

Though varying from state to state, they each endeavored to secure a steady supply of cheap labor, and continued to assume the inferiority of the freed slaves. The black codes had their roots in the **slave codes** that had formerly been in effect. The premise behind chattel slavery in **America** was that slaves were property, and, as such, they had few, if any, legal rights. The slave codes, in their many loosely-defined forms, were seen as effective tools against slave unrest, particularly as a hedge against uprisings and runaways. Enforcement of slave codes also varied, but corporal punishment was widely and harshly employed to great effect.\[2\]

### Expansion: 1830–1860

As the **abolitionist** movement gained force and escape programs for slaves such as the **Underground Railroad** expanded, concern about blacks heightened among some whites in the **North**. Article 13 of Indiana's 1851 Constitution stated "No Negro or Mulatto shall come into, or settle in, the State, after the adoption of this Constitution." The 1848 Constitution of Illinois led to one of the harshest Black Code systems in the nation until the Civil War. The Illinois Black Code of 1853 extended a complete prohibition against black immigration into the state.

All the slave states passed laws banning the marriage of whites and black people, so-called **anti-miscegenation laws**, as did several new **free states**, including Indiana, Illinois and Michigan.\[3\] Indiana and Illinois shared borders with slave states and the southern populations of these states had cultures that shared more values with the South across the Ohio River than the northern populations. In several states the Black Codes were either incorporated into or required by their state constitutions, many of which were rewritten in the 1840s.\[citation needed\]
Post-Civil War

After the abolition of slavery by the Thirteenth Amendment to the United States Constitution, all former slave states adopted new Black Codes. During 1865 every Southern state passed Black Codes that restricted the Freedmen, who were emancipated but not yet full citizens. While they pursued re-admission to the Union, the Southern states provided freedmen with limited second-class civil rights and no voting rights. Southern plantation owners feared that they would lose their land. Having convinced themselves that slavery was justified, planters feared African Americans wouldn't work without coercion. The Black Codes were an attempt to control them and to ensure they did not claim social equality.

The Black Codes granted African Americans certain rights, such as legalized marriage, ownership of property, and limited access to the courts. But the Black Codes denied them the rights to testify against whites, to serve on juries or in state militias, or to vote, and express legal concern publicly. And, in response to planters’ demands that the freed people be required to work on the plantations, the Black Codes declared that those who failed to sign yearly labor contracts could be arrested and hired out to white landowners. Some states limited the occupations open to African Americans and barred them from acquiring land, and others provided that judges could assign African American children to work for their former owners without the consent of their parents.[4]

These are detailed elements of the black codes of Mississippi and South Carolina:[5]

Mississippi:

Negroes must make annual contracts for their labor in writing; if they should run away from their tasks, they forfeited their wages for the year. Whenever it was required of them they must present licenses (in a town from the mayor; elsewhere from a member of the board of police of the beat) citing their places of residence and authorizing them to work. Fugitives from labor were to be arrested and carried back to their employers. Five dollars a head and mileage would be allowed such negro catchers. It was made a misdemeanor, punishable with fine or imprisonment, to persuade a freedman to leave his employer, or to feed the runaway. Minors were to be apprenticed, if males until they were twenty-one, if females until eighteen years of age. Such corporal punishment as a father would administer to a child might be inflicted upon apprentices by their masters. Vagrants were to be fined heavily, and if they could not pay the sum, they were to be hired out to service until the claim was satisfied. Negroes might not carry knives or firearms unless they were licensed so to do. It was an offence, to be punished by a fine of $50 and imprisonment for thirty days, to give or sell intoxicating liquors to a negro. When negroes could not pay the fines and costs after legal proceedings, they were to be hired at public outcry by the sheriff to the lowest bidder....

South Carolina:

In South Carolina persons of color contracting for service were to be known as 'servants,' and those with whom they contracted, as 'masters.' On farms the hours of labor would be
from sunrise to sunset daily, except on Sunday. The negroes were to get out of bed at
dawn. Time lost would be deducted from their wages, as would be the cost of food,
nursing, etc., during absence from sickness. Absentees on Sunday must return to the
plantation by sunset. House servants were to be at call at all hours of the day and night on
all days of the week. They must be 'especially civil and polite to their masters, their
masters' families and guests," and they in return would receive 'gentle and kind
treatment.' Corporal and other punishment was to be administered only upon order of the
district judge or other civil magistrate. A vagrant law of some severity was enacted to
keep the negroes from roaming the roads and living the lives of beggars and thieves.

The Black Codes outraged public opinion in the North because it seemed the South was creating
a form of quasi-slavery to negate the results of the war. After winning large majorities in the
1866 elections, the Republicans put the South under military rule. They held new elections in
which the Freedmen could vote. Suffrage was also expanded to poor whites. The new
governments repealed all the Black Codes; The 14th Amendment's equal protection clause
ensured that the Black Codes could not reappear in southern legislation. It was adopted on July
9th, 1868.

Segregation

As one historian has noted, "Racial segregation was hardly a new phenomenon. Before the Civil
War, when slavery had fixed the status of most blacks, no need was felt for statutory measures
segregating the races. The restrictive Black Codes, along with the few segregation laws passed
by the first postwar governments, did not survive Reconstruction," Leon F. Litwack wrote
[p. 229] in Trouble in Mind: Black Southerners in the Age of Jim Crow, the sequel to his Pulitzer
Prize-winning history Been in the Storm So Long: The Aftermath of Slavery.

Distinction from Jim Crow laws

The Black Codes of the 1860s are not the same as the Jim Crow laws. The Black Codes were in
reaction to the abolition of slavery and the South's defeat in the Civil War. Southern legislatures
enacted them in the 1860s. The Jim Crow era began later, nearer to the end of the 19th century
after Reconstruction.

See also

- Freedmen's Bureau
- Grandfather clause
- Jim Crow laws
- Redlining
- Reverse Underground Railroad
- Slave codes

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The Southern "Black Codes" of 1865-66 Article, Discussion Questions, and Activity from Constitutional Rights Foundation

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